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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

Coordination Proceeding)
Special Title (Rule 1550(b)))
In re TOBACCO CASES II)
This document relates to:) Case No. JCCP No. 4042
The People of the State of) DEPOSITION OF
California, et al, v. Philip) CAROL ST. COOK
Morris Incorporated, et al.,)
Los Angeles Superior Court Case)
No. BC 194217;)
The People of the State of)
California, et al., v.)
General Cigar Co., et al, San)
Francisco Superior Court Case)
No. 996780;)
The People of the State of)
California, et al, v. Brown &)
Williamson, et al., San Francisco)
Superior Court Case No. 996781;)
and)
People of the State of California)
v. Tobacco Exporters, et al.,)
San Francisco Superior Court,)
Case No. 301631)
SERVICE LIST "B")

TAKEN ON: Wednesday, May 3, 2000
TAKEN AT: 550 West C Street, Suite 1440
San Diego, California
REPORTED BY: CYNTHIA DEPWEG
CSR NO. 3280
RPR NO. 036984

1

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FOR PHILIP MORRIS, INCORPORATED
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BY: BURTON A. GROSS, ESQ.

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6

1 C E R T I F I C A T E
2 I, the undersigned, do hereby certify that I have read
3 the foregoing deposition and that, to the best of my
knowledge, said deposition is true and accurate (with
the exception of the following changes listed below):

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27 CAROL ST. COOK

28

7

1 San Diego, CA, Wednesday, May 3, 2000, 9:30 a.m.

2

3 CAROL ST. COOK,

4 HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5

6 EXAMINATION

7 BY MR. GROSS:

8 Q. Good morning. We have already introduced

9 ourselves off the record, but could you please state

10 your full name for the record.

11 A. Sure. Carol St. Cook.

12 Q. Ms. St. Cook, have you ever had your

13 deposition taken before?

14 A. Yes.

15 Q. How many times?

16 A. Once.

17 Q. And is that the deposition that you did in

18 1998 in another tobacco-related case?

19 A. Yes.

20 Q. Have you had a chance to talk to a lawyer

21 to discuss the basic procedures for a deposition?

22 A. Yes.

23 Q. And I take it, you are somewhat familiar

24 with that as well from having done the previous

25 deposition also?

26 A. Yes.

27 Q. Perhaps though we should briefly go over

28 them to make sure we're both on the same page here. I

8

1 will be going forward with a question-and-answer format

2 where I ask questions, and you answer them. It's

3 important that, during the course of the questioning, we

4 not speak over each other, because that's something that

5 is difficult for the court reporter to handle when two

6 people are talking at once. The transcript stays a lot

7 clearer if we're both careful not to interrupt each

8 other in responding to questions or answers.
9 Speaking of accuracy, at the end of the
10 deposition, after the deposition is done, the court
11 reporter will create a booklet that is the transcript of
12 the deposition, and you will have an opportunity to
13 review that for accuracy. You can make changes to the
14 transcript, but you should be aware that any changes
15 that you make could be commented on in court or
16 elsewhere by counsel.
17 One of the things that I think is
18 important to mention at the outset is that we will be
19 asking for information that goes back some time. As a
20 result, there probably will be times where we will be
21 straining your recollection. I do want your best
22 recollection with respect to questions that I ask. If
23 you have knowledge about something, if you're giving an
24 estimate, that's okay. But you need to let me know that
25 it's an estimate. We don't want pure speculation that's
26 not based on any real knowledge or information. So if I
27 ask you a question that calls for pure speculation,
28 please let me know. Is that okay?

9

1 A. Yes.
2 Q. It's your deposition. We can take breaks
3 whenever you would like. We probably should take breaks
4 ever few hours or thereabouts, but please feel free to
5 let me know if you want to take a break at any time.
6 There will be times when I ask questions
7 that may be unclear to you. If you think my question
8 isn't entirely clear or if you don't understand it
9 entirely, please ask me. Please let me know. Please
10 ask me for clarification.
11 And one last thing. Although we're in an
12 informal setting here today, I just want to remind you
13 that you are under oath. I assume that you understand
14 that?
15 A. Yes.
16 Q. Now that we're done with the
17 preliminaries, I think what I would like to first talk a
18 little bit about is your background, perhaps first your
19 educational background, if you could tell me, I guess,
20 basically, your post high school educational background.
21 A. I have a Bachelor's degree in nursing,
22 nurse science, and I have a Master's degree in public
23 health.
24 Q. Where did you get your bachelor's degree?
25 A. San Diego State University.
26 Q. And where did you get your Master's?
27 A. University of Hawaii.
28 Q. The bachelor's degree, is that -- does

10

1 that -- are you an RN as a result of getting that
2 bachelor's degree?
3 A. Yes.
4 Q. And what years -- well, what year did you
5 graduate from San Diego State, if you remember? I'll
6 take an estimate.
7 A. This is terrible. Wait a minute.
8 Q. That's okay.
9 A. Can I figure it out and come back to that
10 question?
11 Q. Sure. Sure.
12 A. Okay.

13 Q. Do you remember when you graduated from
14 your Master's program?
15 A. It was probably about five years after
16 that. Let me --
17 Q. Let's -- perhaps we should work backwards.
18 A. Backwards?
19 Q. Starting maybe with your job experience
20 and then working backwards.
21 A. Okay.
22 Q. Would that help?
23 A. Okay.
24 Q. What don't you tell me -- How long have
25 you been working at the County?
26 A. 13 years.
27 Q. Has that been a continuous time period?
28 A. Yes.

11

1 Q. So roughly 1987 to present?
2 A. Yes.
3 Q. Prior to that, where did you work?
4 A. Prior to that, I worked in Hawaii.
5 Q. Okay. As an RN?
6 A. Yes.
7 Q. Was that immediately prior to working at
8 the County, or was there a time period?
9 A. No, there was a time period when I took
10 care of my father-in-law.
11 Q. And working backwards, can you figure out
12 the time period roughly when you were working in Hawaii
13 as an RN?
14 A. 1976.
15 Q. That's when you started?
16 A. Yes.
17 Q. And how long did you do that?
18 A. Approximately five years.
19 Q. So about 1976 to 1981.
20 Did you go through your Master's program
21 after the --
22 A. No, before that.
23 Q. Oh, okay.
24 A. So I graduated. There we are. I
25 graduated in '76.
26 Q. Graduated from your Master's program in
27 1976?
28 A. Mm-hmm.

12

1 Q. And did you work in between your Master's
2 program and your bachelor's program?
3 A. Yes.
4 Q. Where did you work then?
5 A. I worked with the Department of Psychiatry
6 with the County of San Diego, Mental Health Services.
7 Q. So was that during the period up until
8 1976?
9 A. Yes.
10 Q. Do you know how long --
11 A. Well, two -- my Master's degree was two
12 years. So that was '74.
13 Q. Oh, I see. It was before that, right?
14 A. Right.
15 Q. So you worked up until 1974 there. Do you
16 know roughly how long you worked there?
17 A. A little over four years.

18 Q. So that brings us back to about 1970?
19 A. There we are.
20 Q. And is 1970 when you graduated from your
21 bachelor's program?
22 A. It probably is.
23 Q. Were there any other full-time jobs in any
24 of those time periods that we just discussed?
25 A. No.
26 Q. I think when we talked about the
27 bachelor's degree in nursing, you mentioned nurse
28 science. Is that a specific focus of the program?

13

1 A. A Bachelor of Science in nursing is --
2 yeah, it's a particular focus.
3 Q. Is there any specific focus within that
4 that you focused on?
5 A. I'm not sure what you are asking.
6 Q. I guess what I am wondering, is there some
7 sort of specialty? Is there in a way in which -- let me
8 back up. Strike that.
9 A. Okay.
10 Q. What I was wondering is, when people go
11 through the bachelor nursing program, are there certain
12 specialties or focuses that they can have? And if so,
13 did you have one?
14 A. Yes. Psychiatry and administration.
15 Q. In your training for your bachelor's in
16 nursing, were there any -- was there any course work or
17 educational material relating to the health effects of
18 tobacco smoke?
19 A. Yes.
20 Q. Could you just generally describe for me
21 what that information would have been? Let me back up.
22 What I am trying to get is what types of educational
23 programs there were about that.
24 A. To the best that I can recall, there was
25 mention of it when we dealt with cardiology and
26 pulmonary disease.
27 Q. And the mention related to the health
28 effects associated with tobacco smoke?

14

1 A. That was one.
2 Q. Did that include at that time
3 environmental tobacco smoke --
4 A. No, focused on tobacco smoking.
5 Q. By the way, we have been using the term
6 environmental tobacco smoke, which probably at times we
7 will refer to as ETS or secondhand smoke. For my
8 purposes, those are all the same thing.
9 A. Okay.
10 Q. You had mentioned that you had worked in
11 Hawaii as a nurse from 1976 to 1981. Can you give me a
12 brief description of what that job was?
13 A. I worked as a Director of Community
14 Services at St. Francis Hospital.
15 Q. What were your general job duties there?
16 A. It was actually being in charge of, again,
17 some of the service programs. One in particular was
18 women in substance abuse.
19 Q. Did any of the service programs involve
20 tobacco smoke issues?
21 A. Only as an educational component.
22 Q. In other words, educating individuals

23 about health effects related to environmental tobacco
24 smoke or tobacco smoke?
25 A. Tobacco, yes.
26 Q. Just general tobacco smoke?
27 A. (Inaudible response.)
28 Q. When you did your Master's in public

15

1 health, is there a subspecialty that you focused on in
2 completing that degree?
3 A. Public education and administration.
4 Q. Did your education there involve issues
5 relating to tobacco smoke in any way?
6 A. Not specifically. More in the frame work
7 of public education around different topics, and that
8 could be one of the topics.
9 Q. Let me see if I understand what you are
10 saying. In other words, there were -- there was course
11 work about how to go about doing public education, and
12 that would be one of the topics that might be a
13 component of that course work?
14 A. Right, but it wasn't a full course.
15 Q. Right, I understand. In your educational
16 background, have you ever taken courses that relate to
17 statistics or statistical evaluation methods?
18 A. In the Master's program.
19 Q. What kind of courses were those? Or if
20 you could just maybe describe the course or courses that
21 are responsive to that.
22 A. It was an evaluation course. So, for
23 example, preimposed tests, data surveys, and analyzing
24 data.
25 Q. Did the course teach you how to do
26 statistical analysis?
27 A. To a certain extent.
28 Q. Is that the only course you had taken in

16

1 that area?
2 A. Statistics was another course that I took
3 with my bachelor's degree as well.
4 Q. Have you used the training that you had in
5 college and in your Master's program with respect to
6 statistics in any of your subsequent jobs?
7 A. Yes.
8 Q. How so, generally?
9 A. By and large, preimposed testing and
10 interactive surveys.
11 Q. Can you explain for me what preimposed
12 testing is?
13 A. Pretesting is giving either verbally or
14 written questions to a given population to determine the
15 knowledge base. Then there's an educational
16 intervention and then retesting to see if that knowledge
17 base is changed in a post test.
18 Q. And what are interactive surveys?
19 A. Usually, they're engaging the public. For
20 example, if you're surveying folks leaving a grocery
21 store, it's an opinion poll in some sense, but you had
22 some educational message first in the environment and
23 then you evaluate whether or not there's an impression
24 or an understanding or a knowledge base because of that
25 intervention.
26 Q. So is it similar to the first, except for
27 that -- the first being the preimposed testing -- except

28 that it doesn't involve such a specific --

17

1 A. -- captured audience.

2 Q. Okay.

3 A. The other is captured only because of the
4 frequency of where they are.

5 Q. I see. And have you done those -- have
6 you been involved in those types of statistic analyses
7 or testing or surveys in connection with your work with
8 the tobacco control program?

9 A. Yes.

10 Q. Can you just describe for me generally the
11 surveys or preimposed testing that's been done in that
12 capacity?

13 A. One example of a preimposed test would be
14 with youth. And surveying the youth on the onset and
15 then, again, providing information, and then doing a
16 post test to see if the knowledge base has changed.

17 Q. Are there any other examples that you can
18 think of that have been done during your time with the
19 tobacco control program?

20 A. It's been done with adults.

21 Q. Again, preimposed testing or interactive
22 surveys?

23 A. Well, both.

24 Q. I mean, those are sort of two groups that,
25 I guess, in a way encompass the whole of society, but
26 are there other subgroups for whom --

27 A. We have had focus groups with preteen and
28 teens, young adults, depending on your definition.

18

1 Q. Is preteen and young adults roughly 10 to
2 18 or --

3 A. Yeah.

4 Q. How often has pre- and post testing been
5 done under the tobacco control program in San Diego?

6 A. Well, the example with youth, there is --
7 we have, what we call, the Anti-Tobacco Action Campaign,
8 which are teens trained in theater, and they present to
9 younger children. And in that group, they conduct pre-
10 and post tests.

11 Q. So there, we're talking about skits or
12 plays that older teens perform for younger children?

13 A. Correct.

14 Q. Did those skits sometimes involve
15 educational information about the health effects
16 associated with environmental tobacco smoke?

17 A. Yes.

18 Q. Do you keep copies of the survey results
19 of the pre- and post testing that's been done in that
20 context?

21 A. Yes, for a certain period of time.

22 Q. So if I didn't see them in the documents
23 that were produced to us, would that mean that they were
24 discarded as part of a document retention policy?

25 A. Correct.

26 Q. Are you familiar with, generally speaking,
27 the results of those tests with respect to the
28 Anti-Tobacco Action Campaign theatrical presentations?

19

1 A. Generally, yeah. Yes.

2 Q. What did the results show?

3 A. Generally, that youth have a high

4 knowledge base when it comes to tobacco products.
5 Q. Is that a high knowledge base even before
6 these programs or as a result of these programs or both?
7 A. Probably both, because it depends. I
8 mean, the campaign has been going on for 10 years; so --
9 Q. By that last statement, what you are -- I
10 take it, what you mean is, for many of these students,
11 that wouldn't have been the first intervention they will
12 have had by the program providing educational
13 information about cigarette smoke or environmental
14 tobacco smoke?
15 A. Correct.
16 Q. So some of the earlier warning programs or
17 educational programs will have had an effect even before
18 you get to the point where you're doing this pre- and
19 post testing?
20 A. Correct.
21 Q. When you say the results show that youth
22 have a high knowledge base, does that high knowledge
23 base include knowledge, generally speaking, about health
24 effects associated with environmental tobacco smoke or
25 being around tobacco smoke?
26 A. Yes.
27 Q. You had mentioned that there were also
28 either surveys or statistic analyses done with respect
20
1 to adults. Can you describe the ones that come to mind?
2 A. One was regarding cigar use.
3 Q. Do you remember any others?
4 A. Supporting a tobacco-free lifestyle.
5 Q. One thing I wanted to back up on with
6 respect to the youth area that we were just talking
7 about, when you mentioned the results show a high
8 knowledge base, what time frame are we talking about
9 when these studies were done? Were they done within the
10 last couple of years, or was it in the mid '90s, some
11 other time?
12 A. Mid '90s.
13 Q. Other than the two adult-related surveys
14 that we just talked about regarding cigar use and
15 supporting a tobacco free lifestyle, were there any
16 others that you can recall?
17 A. Again, it would be pre-work places going
18 smoke free; and at that point, there were interventions
19 with school personnel.
20 Q. I'm sorry. I'm not quite sure I follow.
21 A. Well, it's another population. What I am
22 trying to think of is there's different populations that
23 are addressed, like, you know, English-as-a-
24 Second-Language classes, adults in schools.
25 Q. So when you say -- Do you mean that there
26 were interventions done to educate teachers and
27 administrators about tobacco smoke issues in connection
28 with having schools become smoke-free?
21
1 A. Yes.
2 Q. And there were surveys done --
3 A. Yes.
4 Q. -- in relation to that?
5 What did those surveys -- did those --
6 back up. I'm sorry. Strike that.
7 Did those surveys assess whether teachers
8 or administrators or other adults in school were

9 knowledgeable about environmental tobacco smoke issues?
10 A. Yes. Again, it was related to policy
11 development; so -- so it was the harmful effects of
12 tobacco smoke.
13 Q. Both the harmful effects of primary
14 tobacco smoke and environmental tobacco smoke?
15 A. Yes.
16 Q. And what did the surveys show with respect
17 to teachers and school administrators' knowledge?
18 A. Basically, they were aware.
19 Q. They were aware of health effects
20 associated with tobacco smoke and environmental tobacco
21 smoke?
22 A. Yes. Although I guess I could add that
23 environmental tobacco smoke was less than actual
24 smoking.
25 Q. Less aware?
26 A. Yes.
27 Q. Is virtually everybody aware of the health
28 effects associated with primary tobacco smoke?

22

1 A. Yes.
2 Q. Do you remember what percentage of people
3 were aware of health effects associated with primary
4 tobacco smoke?
5 A. No, I couldn't give you a concrete number.
6 Q. Do you have copies of those surveys
7 available or those -- would that be something that was
8 no longer available?
9 A. I don't.
10 Q. Can you describe for me the surveys that
11 related to supporting a tobacco-free lifestyle? I'm
12 sorry. One thing, I keep forgetting to do this. The
13 surveys that we were just talking about, the time frame
14 for that was when?
15 A. The same time frame.
16 Q. Mid '90s?
17 A. Mid '90s.
18 Q. Okay. Turning back then again to the
19 supporting a tobacco-free lifestyle, maybe we should
20 just start with the one question. When did those
21 surveys take place?
22 A. The mid '90s.
23 Q. I wonder if you could just describe for me
24 generally what those surveys entailed. I guess, first,
25 is it one survey or multiple surveys?
26 A. It was basically one. Trying to determine
27 the number of people that had a smoke-free home, for
28 example, or smoke-free vehicle. So if there was

23

1 smoking, were they smoking outdoors, not exposing family
2 members.
3 Q. Do you have figures or could you give me a
4 rough estimate of the percentage of people that those
5 surveys found to have smoke-free vehicles or smoke-free
6 homes?
7 A. No.
8 Q. I assume those surveys were San Diego
9 County focused?
10 A. Yes.
11 Q. And, again, with respect to those surveys,
12 do you or your office have copies of that survey?
13 A. No.

14 Q. Do any of these surveys exist anywhere
15 still?
16 A. The ATAC team may have pre- and post-
17 tests although they were going -- they were going more
18 toward the verbal pre- and post test with the children.
19 So it wasn't a written document anymore.
20 Q. I'm not sure I understood that answer.
21 Are you saying that The ATAC surveys never were in
22 writing?
23 A. At one point, they were, and now it's more
24 show of hands.
25 Q. I see. I see. So these surveys still
26 actually occur, but they don't result in written --
27 A. Documents.
28 Q. -- survey results?

24

1 A. Right.
2 Q. And they're not summarized. Nobody
3 summarizing how many hands went up in the room out of
4 the total group?
5 A. No.
6 Q. So, as far as you know, none of the
7 surveys that we have talked about so far are still
8 available in written form anywhere?
9 A. Correct. They're focus group summaries,
10 and I believe you have some of those in the progress
11 report.
12 Q. Did the progress reports provide summaries
13 of some of these survey results? I have to tell you; I
14 looked at them. I don't think I saw them in there,
15 but --
16 A. I was going to say. I doubt -- I don't
17 think so.
18 Q. They're long reports so I could have
19 missed it; but --
20 A. Okay. I think you started mentioning the
21 focus groups, which was the third category that you had
22 originally identified. Can you describe for me
23 generally what you mean by "focus groups"?
24 A. Having a group of -- a representation of
25 an identified population and then asking specific
26 questions to get a representative sampling.
27 Q. And from, let's say, 1990 to present, do
28 you have a sense of how many focus group programs have

25

1 been done by your program or by people working for your
2 program?
3 A. There have been at least three that I know
4 of. I mean, that I recall, not know of.
5 Q. What were those three that you recall?
6 A. Cigar usage, a youth campaign focus group,
7 and deglamorization of tobacco.
8 Q. Let's take the cigar usage focus group
9 first. When did that take place?
10 A. Approximately a year and a half ago or so.
11 Q. So in the 1998, 1999 time frame?
12 A. Yes.
13 Q. Who was in the focus group?
14 A. These were young -- or, well, youth.
15 Q. Could you describe for me generally what
16 the focus group entailed, what was done?
17 A. A series of questions. For example, what
18 would work in letting youth know the harmful effects of

19 cigar usage and, again, getting information from the
20 participants.
21 Q. So the idea was to basically try to
22 understand better the group that you are trying to reach
23 with a message so that you can reach them more
24 effectively?
25 A. Yes.
26 Q. What about the youth campaign?
27 A. Actually, it was the same type of thing,
28 but focusing on tobacco products.

26

1 Q. So it was similar to the cigar usage one
2 but focusing more generally on tobacco products,
3 including cigarettes?
4 A. Yes.
5 Q. When did that take place?
6 A. That was early '90s.
7 Q. And there was the idea to get input from
8 youth so as to be better able to tailor your warning
9 message to them?
10 A. Yes.
11 Q. Did you provide any specific ads or
12 warning material for them to look at and comment on?
13 A. No.
14 Q. Did you ask youth questions that provided
15 you information about how to reach them with respect to
16 environmental tobacco smoke issues?
17 A. I'm thinking about the one example of
18 environmental tobacco smoke with youth. What worked
19 more was that it would make their clothes smell bad as
20 opposed to being as harmful as cigarette smoking.
21 Q. So, in other words, that they should stay
22 away from environmental tobacco smoke because it would
23 make their clothes smell bad?
24 A. Right, make them less glamorous.
25 Q. I see. It was to provide certain reasons
26 or incentives, not necessarily health-based but just
27 generally incentives for students to keep out of the way
28 of tobacco smoke?

27

1 A. Yes.
2 Q. When did the deglamorization-of-tobacco
3 group take place?
4 A. That was the same time as the cigar.
5 Q. Was that also youth focused?
6 A. Yes.
7 Q. So there, were you looking for input as to
8 what messages would be effective with teens to
9 deglamorize tobacco use?
10 A. Yes.
11 Q. Were any of the messages that were
12 discussed in that -- in those focus groups messages that
13 related to environmental tobacco smoke?
14 A. I believe we had -- yes, I believe we had
15 a question on that.
16 Q. Do you remember what the question is? Or
17 you can paraphrase it if you have some general memory.
18 A. Generally, the belief or -- "Is there a
19 belief that environmental tobacco smoke is harmful?"
20 Q. So that question is asked of the students
21 as part of --
22 A. Yes.
23 Q. -- or youth as part of the focus group?

24 A. Yes.
25 Q. What was the answer to that question?
26 What were the results, generally, if you recall?
27 A. I don't recall the exact results, but,
28 again, they weren't as high as knowing the harmful
28 effects of tobacco use.
1 effects of tobacco use.
2 Q. Did virtually all students know the
3 harmful effects of tobacco use?
4 A. Yes.
5 Q. Did the majority of students know about
6 the harmful effects of environmental tobacco smoke?
7 A. I'm not quite sure how to answer that,
8 because I --
9 Q. Does that require you to speculate or
10 guess?
11 A. Yes.
12 Q. So all you can really remember is that it
13 was lower than the amount for primary tobacco smoke, but
14 what it was specifically, you don't recall?
15 A. Exactly.
16 Q. Are those results written down anywhere?
17 A. We just had a document purge; so I would
18 have to find out. I don't know.
19 Q. Were those results reported in some way in
20 the progress reports?
21 A. Yes.
22 Q. So would that be in the --
23 A. In past ones, not the last two. The cigar
24 one is in there, I know.
25 Q. Is in which one?
26 A. One of the ones for the last year.
27 Q. The ones that you just sent me?
28 A. Yes.
29
1 Q. Is the deglamorization-of-tobacco one in
2 there?
3 A. I'm not sure.
4 Q. If it's not, would it be a timing thing,
5 and it would be in the next one? Or would it end up in
6 a progress report one way or another? Or is it possible
7 it wouldn't end up in there?
8 A. There should be mention of it in a
9 progress report.
10 Q. When you mentioned the document purge, is
11 that part of some general document retention program
12 that the County has or that your program has?
13 A. The County.
14 Q. What's --
15 A. Go through and set a time to actually
16 purge documents or materials and --
17 Q. Do you know the general outlines of what
18 that document purge or document retention plan is?
19 A. I believe the latest is retention for
20 three years.
21 Q. So that means most likely documents from
22 the 1998-to-2000 time frame are still available, but
23 documents from before then may be purged?
24 A. May or may not be, yes. Although --
25 Q. In other words, you can keep certain stuff
26 if you want to, but you're allowed to purge stuff that's
27 more than three years old?
28 A. Correct.

1 Q. Is that a whole County government-wide
2 policy?

3 A. Yes, depending on types of documents. I'm
4 not sure. Legal documents, they have different
5 standards.

6 Q. But for your department, that's the
7 applicable policy?

8 A. Yes.

9 Q. Well, we got into all of this stuff while
10 we were still talking about your educational background
11 and work background. So why don't we finish up on that
12 topic. During the time -- I may have asked you this. I
13 can't quite remember. But during the time when you were
14 an RN in Hawaii, did you -- did any of the programs you
15 worked on deal with tobacco smoke issues?

16 A. Indirectly, not directly.

17 Q. Can you elaborate on that a little?

18 A. For example, with the substance abuse
19 population, addressing addictions and addictive
20 behaviors, it was listed as an addictions or addictive
21 behavior.

22 Q. Smoking?

23 A. Yes.

24 Q. In 1987, you said you came to work for the
25 County. What was your first job when you came to work
26 for the County?

27 A. I was doing public education surrounding
28 HIV.

1 Q. Was that -- Well, maybe we should just
2 back up. What is the name, the proper name, of the
3 department that you were employed in at that time?

4 A. At that time, it was the Department of
5 Health Services.

6 Q. Has the name of that changed over time?

7 A. Yes.

8 Q. What is its name now?

9 A. It's the County of San Diego Health and
10 Human Services Agency now.

11 Q. Have you always worked -- when you say you
12 came to work for the County, has it always been that
13 entity, you know, taking into account the name change?

14 A. Correct.

15 Q. When did the name change, roughly, if you
16 can recall?

17 A. It's been a couple of years now.

18 Q. Was that part of a reorganization of the
19 department?

20 A. Yes.

21 Q. Well, we will get into that in a minute,
22 but why don't we get through the jobs that you have had.
23 For now, we will just call it the health department,
24 which refers to both of those entities. Is that okay?

25 A. Yeah.

26 Q. So your first job with the health
27 department was an AIDS-related job?

28 A. Yes.

1 Q. Were you providing health education about
2 AIDS?

3 A. Yes.

4 Q. Was there any tobacco component to that?

5 A. Not at that time.
6 Q. Was there at a later time?
7 A. Yes, but I was no longer with HIV-AIDS at
8 a later time.
9 Q. So while you were doing that work, there
10 wasn't a tobacco component, but there --
11 A. Correct.
12 Q. -- was starting at some later period?
13 A. Yes.
14 Q. What time period were you doing AIDS-
15 related educational work through the County Health
16 Department?
17 A. Until '89. 1987 to 1989.
18 Q. And then after that, what did you do?
19 A. Then I started with Prop. 99.
20 Q. So you really basically started at the
21 inception of Prop. 99?
22 A. I was the director, yes.
23 Q. And you were the director of what?
24 A. Of the Tobacco Control Resource Program.
25 Q. Is that sometimes referred to as the
26 Tobacco Control Program?
27 A. Or the Tobacco Control Resource Center.
28 That name has changed several times, too, but,

33

1 basically, it's the end result of Prop. 99 funding.
2 Q. So that when we refer to the Tobacco
3 Control Program within the County Health Department,
4 that could be the Tobacco Control Resource Program, the
5 Tobacco Control Resource Center, or the Tobacco Control
6 Program. Those are all the same thing?
7 A. The same.
8 Q. By the way, I just want to remind you that
9 we should not talk over one another, because we will
10 probably confuse the court reporter.
11 A. The only -- let me just add one thing.
12 With the inception of Prop. 10 and tobacco settlement
13 dollars within the last year, there may be reference to
14 a tobacco program, and it could be referring to one of
15 those two entities.
16 Q. Are those separate County-administered
17 programs, the ones from yours, from your program?
18 A. Proposition 10 is.
19 Q. So there are separate people at the County
20 level who are doing a Prop. 10-funded tobacco-related
21 program?
22 A. Yes.
23 Q. Are they within the Health Department?
24 A. Yes.
25 Q. Who's the head of that program?
26 A. The local -- well, Dr. Ross is the head of
27 the agency.
28 Q. Does he head the -- as the head of the

34

1 agency, is he the person who is in charge of the
2 Prop. 10 program?
3 A. Mm-hmm.
4 Q. I'm sorry. "Yes"?
5 A. Yes.
6 Q. Well, we will get into that, too, a little
7 bit later.
8 After -- from 1990 -- 1989 until when were
9 you the Director of the Tobacco Control Resource

10 Program?
11 A. Until today.
12 Q. Do you hold any other positions within the
13 County government?
14 A. Yes.
15 Q. Or titles?
16 A. Chief of Health Promotion.
17 Q. I think what might be useful to do right
18 now -- and this kind of goes back to the Prop. 10
19 discussion we were just having -- would be to try and
20 create sort of a basic organizational chart, to the
21 degree that we can, of what the -- what I am referring
22 to as the County Health Department. But I guess it's
23 correctly titled the County of San Diego Health and
24 Human Services Agency.
25 A. Correct.
26 Q. You had mentioned Dr. Ross. He's the
27 head?
28 A. Dr. Ross is the Director of the Agency,

35

1 correct.
2 Q. Okay. And are there divisions of some
3 sort that fall beneath him?
4 A. Yes. First, there was a merger of the
5 Department of Health Services and the Department of
6 Social Services, Veterans Services, Commission of
7 Children, Youth, and Families.
8 Q. That's -- I'm sorry. Go on.
9 A. That's all right.
10 Q. Those three entities -- or four
11 entities --
12 A. Actually, there's five.
13 Q. There's five?
14 A. Mm-hmm.
15 Q. What's the fifth?
16 A. I'm blanking. I think I'm blanking.
17 Let's see. If I can go back to that. I'm sorry. I'm
18 blanking.
19 Q. That's okay. Let's see if we can fill
20 this out a little bit. Those four -- but there's
21 actually five -- agencies all consolidated into the
22 County of San Diego Health and Human Services Agency,
23 correct?
24 A. Yes.
25 Q. That happened a couple of years ago?
26 A. Yes.
27 Q. So are those now all -- are each of those
28 previous departments now subcomponents or divisions of

36

1 the County of San Diego Health and Human Services
2 Agency?
3 A. The County of San Diego Health and Human
4 Services Agency represents now those components, which
5 are also divided into six regions throughout the county.
6 Q. So each one of those five have six
7 regional offices?
8 A. The idea was to have one entity spread in
9 six regions. So in each region, you should find that --
10 one of those components and/or presence.
11 Q. I see. So there are offices in six
12 regions -- in six regions, and in each of those offices,
13 there are people who have responsibilities that fall
14 within the various --

15 A. Predominantly, health and social services
16 were the largest entities.
17 Q. Right.
18 A. Okay.
19 Q. And does the Tobacco Control Program fall
20 within the Department of Health among those different --
21 A. Yes.
22 Q. Are they departments, or are they
23 divisions, or is there a word for them?
24 A. That's a good question. There are
25 regions, and then there are -- actually, the tobacco
26 contract currently comes under the Office of Public
27 Health.
28 Q. Is that the fifth one?
37
1 A. No. That's one within -- actually, it's a
2 standalone. It was newly created with one of the last
3 organizational transformations.
4 Q. So there's actually six then. Five are
5 old ones, and this new one?
6 A. Well, but it's -- how do I explain this?
7 It wasn't on the scene when the other ones were put
8 together. Public Health Services existed in the
9 Department of Health Services, but the Department of
10 Health Services, most of those services, again, are now
11 reflected in the six regions; but the retention of
12 public health programs was retained in a central
13 component, central office.
14 Q. Okay.
15 A. If that helps.
16 Q. Maybe the easiest way to go at this is to
17 actually just sort of focus in a little bit more on what
18 I am most specifically interested in.
19 A. Okay.
20 Q. What I was trying to do is get a sense of
21 what the universe of groups or agencies are within the
22 overall County Health and Human Services Agency so that
23 I can understand who, other than, for example, the
24 Tobacco Control Program, might be doing tobacco-related
25 programming or educational or warning programs.
26 A. It would be predominantly the Tobacco
27 Control Program. You know, as I mentioned with Prop. 10
28 coming on the scene, there may be some components within
38
1 that program as well.
2 Q. So that's one separate entity, the
3 Prop. 10 entity.
4 A. Right.
5 Q. What about --
6 A. It has a local commission. The Tobacco
7 Control has a local coalition. Right.
8 Q. So the local coalition, we will get to,
9 too. As I understand that, that's not really all county
10 groups. That's a bunch of other public or private
11 groups that interact with the Tobacco Control Program
12 and work together cooperatively?
13 A. Yes. Yes.
14 Q. There are references in the document to a
15 perinatal program that seems to have some smoking-
16 related educational activity. Are you familiar with
17 that program?
18 A. I can't recall the exact year, but roughly
19 in the mid '90s, a certain amount of Prop. 99 funds was

20 diverted to perinatal health.

21 Q. Was there a perinatal health program that
22 was separate from the Tobacco Control Program in San
23 Diego?

24 A. Yes.

25 Q. Do you know whether that program --
26 whether a component of that program was to provide
27 warning information to either expecting mothers or new
28 mothers with respect to health effects of tobacco smoke

39

1 or environmental tobacco smoke on children?

2 A. Yes.

3 Q. You know, I asked a question that made the
4 answer confusing, because I asked "Do you know whether"
5 it does, and you said yes.

6 Is the answer that there were -- there was
7 a component of the program that covered information
8 about the effects of tobacco smoke and environmental
9 tobacco smoke on fetuses and children?

10 A. Yes.

11 Q. So when you referred to the money being
12 diverted -- strike that.

13 Are there any other groups like this
14 perinatal health group that exist within the County
15 government that do any kind of tobacco-related education
16 or warning? One of the reasons I mention the perinatal
17 group was to try and sort of cast a broad net.

18 A. Not as a primary focus.

19 Q. But are there some that do it as a
20 nonprimary focus?

21 A. Oftentimes, there are health messages that
22 are placed on different brochures as just, you know, a
23 listing of health kind of messages, and it could be in
24 one of those, but not as a primary focus, no. A
25 separate Prop. 10, I guess.

26 Q. How about substance abuse programming?

27 A. There is a substance abuse entity, which
28 tobacco prevention messages was to be a part of.

40

1 Q. What's the name of this substance abuse
2 entity?

3 A. It used to be Alcohol and Drug Services,
4 and they're looking to have it as Alcohol and Tobacco
5 and Drug Services. It's still -- The primary focus is
6 alcohol and drugs. They have used a tobacco prevention
7 component.

8 Q. Do you know if the tobacco prevention
9 component contains information about the health effects
10 of environmental tobacco smoke?

11 A. Currently, I can't say. It did at one
12 time. Like four years ago, I know it did.

13 Q. So four years ago, you were familiar with
14 what they were doing. At that time, they had that,
15 correct?

16 A. Yes. With the reorganization, it's
17 different now.

18 Q. So you're just not familiar, one way or
19 the other, with whether they are doing that now?

20 A. Right.

21 Q. And did that exist for a period of --
22 strike that.

23 Four years ago takes us back to about
24 1996. Were you familiar with whether they had ETS

25 components before 1996?
26 A. Again, that's about the time frame.
27 Q. Are there any other groups like the
28 Alcohol and Drug Services Group within the County of San
41
1 Diego Department of Health and Human Services Agency
2 that has a nonprimary goal tobacco-related warning or
3 education?
4 A. Again, it would be not a primary focus.
5 Within Health Services, there are multiple messages, and
6 it could be appear as a message, but, again, it's not
7 primary.
8 Q. Do you have some sense of what the other
9 types of programs, where that kind of message might come
10 up, are?
11 A. I know in HIV, it does now.
12 Q. Okay. Any others?
13 A. Possibly in some of the subcontracts, but
14 then that's Prop. 99 money.
15 Q. Okay.
16 A. But I can't think of any others.
17 Q. We will come back to subcontracts later,
18 but do you know whether the HIV program contains
19 warnings both about smoking and being around tobacco
20 smoke?
21 A. Yes, it does.
22 Q. Do you know what the nature of the warning
23 is -- well, about either?
24 A. It surrounds the issue of affecting the
25 immune-compromised person.
26 Q. Do you know how long that's been a
27 component of the HIV program?
28 A. I would have to estimate, but I would
42
1 estimate '96ish. 1996. '95, '96.
2 Q. You mentioned earlier the Prop. 10
3 program. Has the Prop. 10 program in San Diego actually
4 produced any warnings, public warnings -- media or
5 otherwise -- to date?
6 A. Not that I know.
7 Q. Are you not particularly familiar with
8 what they're doing generally or --
9 A. I'm not currently, no.
10 Q. You're not currently aware of what they
11 are doing?
12 A. Right.
13 Q. Who other than Dr. Ross is involved with
14 the Prop. 10 programming at the County?
15 A. Gloria Brygelson is.
16 Q. Who is she?
17 A. She's someone who is -- I'm not sure of
18 her official title, but working with the Prop. 10 entity
19 within HHSA.
20 Q. Do you know how to spell her name?
21 A. I think it's B-r-y-g-e-l-s-o-n or s-e-n.
22 Q. Do you have much contact with the people
23 who are doing Prop. 10-related work?
24 A. No.
25 Q. Do you know if the Prop. 10 people in the
26 county have done any kind of educational or warning
27 programming -- and I'm using programming in the broadest
28 sense -- relating to the health effects of environmental
43

1 tobacco smoke?
2 A. I really can't speak to their activities.
3 Q. Okay. So far, I think we have been
4 focusing only on within the County Department of Health
5 and Human Services Agency -- the County Health and Human
6 Services Agency. Are there other aspects of the County
7 government that have a role with respect to tobacco
8 warning or education?
9 A. Only as much as the County policy.
10 Q. Can you explain to me what you mean by
11 that?
12 A. The County has a number of policies.
13 There is one related to smoking at the work place, that
14 type of thing.
15 Q. So you're saying that the County -- there
16 are people who are involved in both developing and
17 enforcing the policies that relate to tobacco smoke?
18 A. Yes.
19 Q. Those are actually really policies that
20 relate to environmental tobacco smoke as well?
21 A. Yes.
22 Q. There's also the County Office of
23 Education. Is that correct?
24 A. Yes, but it's not under our domain. It's
25 separate.
26 Q. In other words, it doesn't fall within the
27 same overall area of County government as does your
28 department?

44

1 A. Correct.
2 Q. I see. I should back up and -- when I use
3 County government and ask, I'm asking about any other
4 entities at the County level. I guess I mean that in
5 the broadest sense. So is there anybody other than the
6 County Office of Education, if you use a broader
7 definition of what the County is?
8 A. It's just that the -- the County Office of
9 Education is a separate entity than the County of San
10 Diego -- the County of San Diego, which HHSA is a part
11 of. It reports to elected officials, and then the
12 County Office of Education reports to another group of
13 elected officials. So they really are separate
14 entities.
15 Q. Does the County Office of Education report
16 to the Board of Education and the -- or something like
17 this -- a similar named entity, whereas your department
18 reports to the Board of Supervisors?
19 A. Right.
20 Q. Either of those areas, is there another
21 area other than the County Office of Education that has
22 any involvement that you know of in tobacco-related
23 warning or education?
24 A. Not that I know of.
25 Q. But the County Office of Education does
26 have that sort of involvement?
27 A. Yes.
28 Q. Do you coordinate your efforts with the

45

1 County Office of Education?
2 A. They have been participants on the Tobacco
3 Control Coalition.
4 Q. Does that mean that you are able to
5 coordinate your activities between the two in that

6 context or through that vehicle of the coalition?
7 A. To some extent, yes.
8 Q. And -- but the Tobacco Control Program
9 does do a lot of programming that is directed at youth,
10 and then the County Office of Education at least
11 administers other programming that's also Prop. 99
12 funded that's also directed to the same youth, correct?
13 A. Yes. The Prop. 99 funds that County
14 Health and Human Services receives can only be used --
15 or cannot be used for in-classroom activities or --
16 well, in-classroom activities.
17 Q. So in-classroom activities then are funded
18 by Prop. 99 money that comes through the County Office
19 of Education?
20 A. Yes.
21 Q. Do you want to take a break for a few
22 minutes?
23 A. Sure.
24 Q. I can use one.
25 (A recess was taken.)
26 (Defendants' Exhibit Nos. 480 - 492 were marked.)
27 BY MR. GROSS:
28 Q. During the break, I had marked as exhibits
46
1 Nos. 480 to 492 a series of progress reports, and I gave
2 you a few minutes to flip through them and review them.
3 Have you had a chance to look at those?
4 A. To look at them, yes.
5 Q. I'm going to ask some questions about the
6 group of exhibits as a whole, and then we will go
7 through them a little bit very quickly one by one. But
8 are those the progress reports, generally speaking, for
9 1990 through 2000 that you produced, your office
10 produced, to us?
11 A. Yes.
12 Q. Can you describe for me what the progress
13 reports generally are for? Actually, perhaps I
14 shouldn't ask such an open-ended question. Let me make
15 it clearer. The progress reports that you -- your
16 office provides to the State Department of Health
17 Services are to summarize during a time period what the
18 program has been doing with the Prop. 99 funding it
19 receives?
20 A. Yes.
21 Q. And is it correct that the progress
22 reports, there are two types of progress reports, ones
23 that summarize a subperiod within -- let me back up.
24 Ones that summarize either a six-month or
25 perhaps one-year period, and then comprehensive reports
26 that summarize usually a two- or three-year period?
27 Maybe I should back up, because I think you are having
28 trouble with the question.
47
1 Are there both progress reports and
2 something called comprehensive progress reports?
3 A. The comprehensive progress report is for
4 one year. That's it. It's for one year. So it takes
5 into account all the reporting, however many reports
6 that was, throughout the year, and it's combined into
7 one year-end report.
8 Q. Now, these progress reports, have you had
9 any responsibility in producing these progress reports
10 over the years?

11 A. Yes.
12 Q. What's your role been?
13 A. To sign off on them.
14 Q. So others at your direction prepare -- in
15 the office prepare the progress reports?
16 A. Yes.
17 Q. They do that by gathering information
18 about what the Tobacco Control Program has done during
19 that time period?
20 A. Yes.
21 Q. You mentioned signing off -- let's turn,
22 for example, to Exhibit 482, which I think is the third
23 one in your list.
24 A. 482?
25 Q. Here it is. Now, when you refer to "sign
26 off," are you referring to the certification that is on
27 the front page of 482, which says, "I affirm that the
28 information presented in the report accurately reflects
48
1 the current status of this project to the best of my
2 knowledge"?
3 A. Yes.
4 Q. That's your signature there?
5 A. Yes.
6 Q. So what that means is that you are
7 certifying that this accurately reflects what the
8 Tobacco Control Program did during the time period that
9 the report encompasses?
10 A. Yes.
11 Q. I pointed to that because the first couple
12 have the name of somebody else under the signature page.
13 Actually, I take that back. Only the first one does.
14 The first one, Exhibit 480, has Jane Young?
15 A. Yes.
16 Q. Was she your predecessor?
17 A. Yes -- well -- yes is accurate. She was
18 the Chief of Public Health Education when Prop. 99
19 moneys came in.
20 Q. So other than this one though, you were
21 the person who actually had the responsibility to
22 certify and insure that these progress reports
23 accurately reflect what the Tobacco Control Program was
24 doing --
25 A. Yes.
26 Q. -- over that time period?
27 A. Yes.
28 Q. And do you believe that they accurately
49
1 reflect what the Tobacco Control Program was doing
2 during each of the time periods?
3 A. Yes.
4 Q. Were you involved in preparing this first
5 one that does not have your signature, Exhibit 480?
6 A. Yes.
7 Q. Do you believe this one to be accurate as
8 well?
9 A. Yes.
10 Q. And these documents, are they kept both at
11 the State Department of Health Services and in your
12 County Department in the regular course of business as
13 business documents or public documents?
14 A. I don't know how long they're kept at the
15 State level, but we retain the progress report.

16 Q. Do you use the progress reports yourself
17 to reference back to what has been done in the past by
18 the program?
19 A. Yes.
20 Q. Okay. Let's go quickly through each of
21 them to establish what they reflect. Exhibit 480, is
22 this the report that summarizes what the Tobacco Control
23 Program did during the January 1, 1990, through
24 August 31, 1990, time period?
25 A. Yes.
26 Q. Is this the entire report, or were there
27 attachments that are not included?
28 A. I'm not sure, because this says

50

1 Attachment 1; so --
2 Q. If you will look at each of the ones --
3 A. Oh, I see what they did. Okay.
4 Attachment 1 is a form, a State form, and then there's
5 copies of attachments of what we did, meaning the
6 program, at the end of the report.
7 Q. So I think -- it might be helpful to look
8 at 481 as an example?
9 A. Okay.
10 Q. Because it has the cover letter as well.
11 Is Attachment 1 sort of the report, and the transmittal
12 letter is what it's an attachment to? If you look at
13 the second page, you will see it's Attachment 1?
14 A. Right. This is the State form.
15 Q. So the report is Attachment 1 --
16 A. Right.
17 Q. -- effectively?
18 And so this is a true and complete copy
19 then of the -- of Attachment 1 for No. 480,
20 Exhibit No. 480?
21 A. Yes.
22 Q. All it's missing is the transmittal cover
23 letter?
24 A. Yes.
25 Q. There's a reference to contract amount on
26 that first page of Exhibit 480, and it has the figure of
27 \$1,784,678. What does that figure represent?
28 A. The dollar amount of the contract with the

51

1 State.
2 Q. Does it reflect the amount that was
3 actually spent, or is it just an allocated amount?
4 A. That was the allocated amount.
5 Q. And as we go through all of these progress
6 reports, there's a reference to the contract amount, and
7 it's -- those are all allocated amounts?
8 A. Yes.
9 Q. Were the allocated amounts eventually all
10 spent? It was just a matter of timing as to when they
11 were spent, or would there actually be allocated amounts
12 that include dollars that were never spent?
13 A. Do you want to repeat that?
14 Q. Maybe I can simplify it.
15 Did the allocated amounts reflect amounts
16 that at some point actually were spent?
17 A. Yes.
18 Q. So they accurately identify the amount
19 that was spent --
20 A. But not necessarily during the reporting

21 time frame.

22 Q. Okay. And if I were to add up each of
23 these contract amounts from each of these progress
24 reports, assuming I had all the progress reports, would
25 that provide the total amount that the Tobacco Control
26 Program in San Diego County received of Prop. 99 funds
27 during that time period?

28 A. It should.

52

1 Q. Are there any groups other than the
2 Tobacco Control Program within the County, within the --
3 let me get the name exactly correct -- within the County
4 of San Diego Health and Human Services Agency that
5 received Prop. 99 funds?

6 A. From the beginning of time, meaning from
7 the original contract amount, the only other group would
8 be maternal and child health, and that was for
9 perinatal.

10 Q. Right. So we discussed that earlier?

11 A. Yes.

12 Q. So their amounts would be in addition to
13 the amounts that are shown on these contract numbers?

14 A. They did report separately. I don't
15 remember if it was broken out of the overall contract
16 amount so that the overall report reflected both, you
17 know, portions. But at some point, there is reference
18 back to that.

19 Q. So if I understood that correctly, you're
20 not certain whether those funds --

21 A. I don't know if it was on the face sheet.
22 I mean, those funds would be a part of the allocation.
23 I just don't know. On the cover sheet, I don't recall
24 whether or not that amount that went to perinatal was
25 then included in this amount or it added up to that
26 amount.

27 Q. Let's turn to Exhibit 481. Is this a
28 complete and accurate copy of the progress report for

53

1 January 1, 1991, through June 30, 1991?

2 A. To the best of my knowledge, yes.

3 Q. And it therefore reflects what the Tobacco
4 Control Program was doing during that time period?

5 A. Yes.

6 Q. Let's turn to Exhibit 482. Is this the
7 entire progress report for the time period July 1, 1991,
8 through December 31, 1991?

9 A. I believe it is.

10 Q. This reflects, this report reflects, what
11 the Tobacco Control Program was doing during that time
12 period?

13 A. Yes.

14 Q. Turn to Exhibit 483. Is this a complete
15 copy of the progress report for San Diego County for
16 January 1, 1991, through June 30, 1992?

17 A. Yes.

18 Q. And it accurately reflects what the
19 program was doing during that time period?

20 A. Yes.

21 Q. Let's turn to Exhibit 484. Can we go off
22 the record for a moment.

23 (A discussion was held off the record.)

24 BY MR. GROSS:

25 Q. For the record, I broke Exhibit 484 up

26 into 484 and 484A, because, upon looking at the
27 document, it appeared that there are actually two
28 progress reports hooked together into one.

54

1 Let's turn, first, to Exhibit 484. Is
2 this a complete and accurate copy of the progress report
3 created by your department for July 1, 1992, through
4 June 30, 1994?

5 A. Yes.

6 Q. So does that report accurately reflect
7 what the County was doing during that time period?

8 A. Yes.

9 Q. Turning to Exhibit 484A, is that a true
10 and complete copy of the progress report for July 1,
11 1993, through December 31, 1993?

12 A. Yes.

13 Q. Does that report accurately reflect what
14 the Tobacco Control Program was doing during that time
15 period?

16 A. Yes.

17 Q. Can we go off the record for a minute.
18 (A discussion was held off the record.)

19 BY MR. GROSS:

20 Q. You pointed out to me, as we were going
21 through 484A, that actually there is another progress
22 report attached to the back of 484A. Is that correct?

23 A. Yes.

24 Q. And that is the progress report for
25 July 1, 1992, through December 31, 1992? Is that
26 correct?

27 A. Yes.

28 Q. Is that an accurate copy of the progress

55

1 report for that time period?

2 A. Yes.

3 Q. Do you agree that there are certain
4 exhibits that appear to have been attached to the
5 report, but that are not attached to this copy?

6 A. It appears that way.

7 Q. Would this report accurately reflect what
8 the Tobacco Control Program in San Diego County was
9 doing during the July 1, 1992, through December 31,
10 1992, time period?

11 A. Yes.

12 Q. Turning to Exhibit 485, is this the
13 progress report for the July 1, 1994, through
14 December 31, 1994, time period?

15 A. Yes.

16 Q. As I look at this copy, it looks to me
17 like -- Turning to the second page, which identifies the
18 forms and attachments that are supposed to be included,
19 it looks like to me like this copy includes all of the
20 things listed in Checklist A, but not all of the
21 attachments listed on -- under B. Is that correct?

22 A. Yes.

23 Q. But for the materials that are included in
24 Checklist A, is this a true and correct copy?

25 A. Yes.

26 Q. Let's turn to Exhibit 486. Is this a true
27 and correct copy of the progress report for January 1,
28 1995, through July -- June 30, 1995?

56

1 A. Yes.

2 Q. And, again, this one also includes all the
3 items identified, the checklist, on the second page, but
4 it doesn't include the attachments. Is that correct?
5 A. Yes.
6 Q. Generally speaking, just to clarify for
7 the record, the attachments are copies of actual
8 materials that were -- that are referenced in the
9 discussion section. Is that right?
10 A. Yes.
11 Q. So, for example, those would be copies of
12 booklets or brochures or other written materials, for
13 example, that were actually used?
14 A. Correct.
15 Q. Some of these progress reports include
16 those attachments and others don't. Do you know, for
17 the ones that don't, whether there are available in the
18 County files somewhere copies that do have the
19 attachments?
20 A. If they weren't produced, they are not
21 available.
22 Q. Because they don't exist, at least at the
23 County level?
24 A. Correct.
25 Q. They might have them at the State?
26 A. If they retain them.
27 Q. Exhibit 487, is this an accurate copy of
28 the progress report for July 1, 1995, through

57

1 December 31, 1995?
2 A. Yes.
3 Q. It reflects the activities that your
4 office was engaged in during that time period?
5 A. Yes.
6 Q. Unlike some of the other ones, it does not
7 include some exhibits that were part of actual material
8 that your office created?
9 A. Correct.
10 Q. But other than that, it's complete?
11 A. Yes.
12 Q. Let's turn to Exhibit 488. Is this an
13 accurate and complete copy of the progress report for
14 July 1, 1997, through December 31, 1997, as produced by
15 your office?
16 A. Yes.
17 Q. Can you tell if this one includes all of
18 the attachments?
19 Go off the record for a moment.
20 (A discussion was held off the record.)
21 BY MR. GROSS:
22 Q. During the break, based on your review of
23 the document that was Document No. -- or
24 Exhibit No. 488, we have split that up into three
25 exhibits: Exhibit 488, Exhibit 488A, and Exhibit 488B.
26 That's because those are actually three separate
27 progress reports. Is that correct?
28 A. Yes.

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1 Q. 488 is a complete copy, an accurate copy,
2 of the progress report for July 1, '97, through
3 December 31, '97?
4 A. Yes.
5 Q. Does it include all the exhibits that are
6 actual materials created by the program or not?

7 A. No.
8 Q. So it's complete other than that?
9 A. Yes.
10 Q. And that accurately reflects what the
11 Tobacco Control Program was doing from July 1, '97,
12 through December 31, '97?
13 A. Yes.
14 Q. 488A is the comprehensive report for the
15 Tobacco Control Program in your county for January 1,
16 1997, through June 30, 1997?
17 A. Yes.
18 Q. And is this a complete and accurate copy
19 of the progress report?
20 A. Yes.
21 Q. Does it include the attachments that are
22 the specific materials developed by your program or not?
23 A. No.
24 Q. But other than that, it's complete?
25 A. Yes.
26 Q. Exhibit 488B, is that a complete and
27 accurate copy of the progress report from your County
28 for July 1, 1996, through December 31, 1996?

59

1 A. Yes.
2 Q. Is it correct that this one appears to
3 include some of the attachments that are the actual
4 materials created by your program, but not all of them?
5 A. Yes.
6 Q. Other than the materials that are -- that
7 may not be included, is it a complete report in the
8 narrative section?
9 A. Yes.
10 Q. Does it accurately reflect what the
11 Tobacco Control Program was doing from July 1, '96,
12 through December 31, '96?
13 A. Yes.
14 Q. We're getting there.
15 Let's turn to Exhibit 489. Is this an
16 accurate and complete copy of the progress report, the
17 final comprehensive report, for July 1, 1996, through
18 June 30, 1998?
19 A. Yes.
20 Q. Does it accurately reflect what the San
21 Diego Tobacco Control Program was doing during that
22 time?
23 A. Yes.
24 Q. Let's turn to Exhibit 490. Is this a
25 complete and accurate copy of the progress report
26 produced by your program for the July 1, 1998, through
27 December 31, 1998, time period?
28 A. Yes.

60

1 Q. Does this include any attachments that
2 were included with the narrative part of the report?
3 A. Limited.
4 Q. So it has that Attachment 1 at the very
5 end?
6 A. Right.
7 Q. Were there more attachments than that than
8 the one that was actually submitted to the State?
9 A. Well, there's a documentation list, and
10 those don't appear.
11 Q. Other than that, is this report complete?

12 A. Yes.
13 Q. This accurately reflects what the County
14 was doing with respect to the Tobacco Control Program
15 during the time period July 1 '98, and December 31 '98?
16 A. Yes.
17 Q. Let's turn to Exhibit 491. Is this a
18 complete and accurate copy of the progress report for
19 your County from January 1, 1999, through June 30, 1999?
20 A. Yes.
21 Q. Does it accurately reflect what your
22 program was doing during that time period with respect
23 to tobacco control?
24 A. Yes.
25 Q. Are the documentation attachments attached
26 to this one?
27 A. Limited, but there are some.
28 Q. Some, but not all of them?

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1 A. Right.
2 Q. But the report is complete other than
3 that?
4 A. Yes.
5 Q. Turn to the last exhibit, Exhibit 492. Is
6 this a progress report from your program for the time
7 period July 1, 1999, through December 31, 1999?
8 A. Yes.
9 Q. Does this document include all of the
10 attachments, the documentation, as it's referred to?
11 A. Not all, but some.
12 Q. Other than that, is it complete?
13 A. Yes.
14 Q. Does this accurately reflect what the
15 County Tobacco Control Program was doing during July 1,
16 1999, through the December 31, 1999, time frame?
17 A. Yes.
18 Q. Maybe we should take a quick break.
19 (A lunch recess was taken.)

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1 San Diego, CA Wednesday, May 3, 2000, 12:55 p.m.

2
3 EXAMINATION

4 BY MR. GROSS:

5 Q. We're back on the record here. Turning to
6 a different topic than the topic we were talking about
7 last, have you had any conversations with anybody other
8 than your own attorneys about this deposition?
9 A. I'm not -- well, conversations, no.
10 Announcements, yes.
11 Q. In other words, just telling people that
12 you have this deposition?
13 A. Exactly. Exactly.
14 Q. Those would be people in your office?
15 A. Right.
16 Q. Have you had any conversations with

17 anybody other than me or your attorneys about the
18 lawsuit that's the subject of this deposition?
19 A. No.
20 Q. I'm going to go through the names of a few
21 people, a couple of organizations, just to see if you
22 have any familiarity with them. I rather expect that
23 you don't; so it's not a quiz, but have you ever heard
24 of Mark Todzo?
25 A. No.
26 Q. Roger Carrick?
27 A. No.
28 Q. Brian Brookey?

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1 A. No.
2 Q. Paul Dowhall?
3 A. No.
4 Q. Deborah Sevis?
5 A. No.
6 Q. The American Environmental Safety
7 Institute?
8 A. No.
9 Q. The Lexington Law Group?
10 A. No.
11 Q. Preston Gates and Ellis?
12 A. No.
13 Q. Earlier in the deposition, you
14 mentioned -- made a brief reference to subcontractors.
15 Does the County Tobacco Control Program have
16 subcontractors that it uses for tobacco-related issues?
17 A. Yes.
18 Q. Have those subcontractors been the same
19 entities from the beginning of the program until now?
20 A. No.
21 Q. Can you tell me the ones that you
22 presently use?
23 A. There are youth that we contract with.
24 They're members of the Anti-Tobacco Action Campaign.
25 Q. Okay. Any other subcontractors?
26 A. San Diego State University Foundation.
27 San Diego State University Foundation.
28 Q. Okay. Any others?

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1 A. An individual evaluator, Richard Serpe.
2 Q. Richard -- how --
3 A. S-e-r-p-e.
4 Q. Are there any others that you presently
5 contract with?
6 A. Not that I can think of, no.
7 Q. Can you name for me others that you have
8 contracted with before now?
9 A. A media public relations firm, The Gable
10 Group. Last year, with the San Diego Padres
11 organization, 93.3 radio station.
12 Q. Is that 93.3 --
13 A. Yes.
14 Q. -- radio station?
15 A. And the Union-Tribune.
16 Q. How about the American Lung -- Children's
17 Festival; was that a subcontractor at one point?
18 A. It doesn't sound familiar.
19 Q. How about the Council of Community
20 Clinics; there's a reference to them in the 1999
21 progress report.

22 A. There were mini grants that were given to
23 groups.
24 Q. I see. So mini grants is something
25 different from subcontractors?
26 A. Yes. Subcontractors would be literally
27 subcontracting with them to carry out specific
28 activities.

65

1 Q. Is there a difference between a mini grant
2 and subcontractor in that a mini grant is a payment for
3 a one-time thing?

4 A. One time and to support whatever activity
5 that particular group is doing as opposed to supporting
6 what the program is doing.

7 Q. I see. So subcontractors are really more
8 of an extension of the program?

9 A. Correct.

10 Q. I see. Are there other subcontractors
11 that the program has subcontracted with over time other
12 than the ones you have listed so far?

13 A. Those are the largest ones that I can
14 recall.

15 Q. So there might be some smaller ones?

16 A. Yes.

17 Q. But you can't recall those?

18 A. Yes. Those, again, are the largest.

19 Q. They would probably be somewhere in the
20 progress reports?

21 A. Oh, yes.

22 Q. You mentioned mini grants. Are there --
23 has the program used mini grants throughout -- from 1990
24 to present or have there only been times when you have
25 done that?

26 A. It's been more recent. So it's been more
27 recent in the last three years, I would say.

28 Q. Can you name some entities that have

66

1 received mini grants?

2 A. Well, I would really have to go back and
3 look at them, because I can -- I know what their
4 objectives were, not necessarily exactly their title.

5 Q. Right. Okay. Well, maybe I should do it
6 this way. Were there any mini grants given to groups
7 that had, either as a primary or even a secondary
8 objective, education on or warning activities about
9 environmental tobacco smoke?

10 A. Secondary, yes.

11 Q. As a secondary goal rather than primary
12 goal?

13 A. Right.

14 Q. Who were some of the recipients of the
15 mini grants that would fall in that category?

16 A. Again, I would have to look at the list,
17 because what I am thinking of is one of the local
18 campaigns to have ads on buses.

19 Q. Were they on the sides of buses or inside
20 of buses?

21 A. Inside.

22 Q. I think I might know what you are talking
23 about. Let me see here. Was that a program that had
24 ads involving African-American students, I believe, or
25 children stating their thoughts about ETS?

26 A. Yes.

27 Q. Did that take place in 1999?
28 A. Yes.

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1 Q. And I believe that is the Council of
2 Community Clinics Grantee. Does that sound right to
3 you?

4 A. Yes. Because -- yes.

5 Q. So if you could describe that for me.
6 Well, do you know how much the grant was for?

7 A. Ostensibly, I think it was \$5,000.

8 Q. All of that was for posting placards with
9 warning messages about ETS inside buses?

10 A. Yes.

11 Q. Do you know how long they were in the
12 buses?

13 A. At least six months.

14 Q. Are they presently in the buses?

15 A. I don't know for certain.

16 Q. I'm sorry?

17 A. I don't know for certain.

18 Q. Were they in all County buses?

19 A. No.

20 Q. Do you know how many buses they were in
21 then?

22 A. No.

23 Q. Can you think of any other mini grants
24 from any time period that had ETS-related warning or
25 educational information as part of what was being done?

26 A. Strictly on ETS, I would have to look it
27 up to be -- I mean, I would have to look it up.

28 Q. So there may be some more mini grants, but
68
1 you don't recall them specifically?

2 A. Right.

3 Q. Okay. Now, the subcontractors you
4 mentioned, the funds that they received, are those
5 Prop. 99 funds that your department receives and then
6 you pay over to them?

7 A. Yes.

8 Q. One of those was the Anti-Tobacco Action
9 Campaign. Can you describe that campaign for me,
10 generally.

11 A. Currently, it's hiring teens as individual
12 contractors to, again, perform teen theater to younger
13 youth.

14 Q. Mm-hmm. And the teen theater would
15 sometimes involve ETS messages?

16 A. Yes.

17 Q. The theater -- would these take place in
18 schools, or are they done elsewhere?

19 A. It could be community groups. Or if it
20 isn't school, it's afterschool programs, but, again, not
21 in classroom.

22 Q. Can we mark this next in order.

23 (Defendants' Exhibit 493 was marked.)

24 BY MR. GROSS:

25 Q. I have marked as Exhibit 493 a document
26 that was produced by your office. Do you recognize this
27 document?

28 A. Yes.

69

1 Q. Is this a transcript of one of the plays
2 that is performed by The ATAC group?

3 A. Yes.
4 Q. You will see there are control numbers at
5 the bottom. The first page is SD003800. If you would
6 turn to SD003821, read at the top of that page. Is this
7 an example of information about the health effects of
8 environmental tobacco smoke that's included in these
9 plays?
10 A. Yes.
11 Q. Do you know whether this play aired, was
12 performed?
13 A. To the best of my knowledge, yes.
14 Q. Let's mark this next in order. I have
15 placed in front of you Exhibit 494.
16 (Defendants' Exhibit No. 494 was marked.)
17 BY MR. GROSS:
18 Q. Is this a flyer that promotes The ATAC
19 theatrical presentations?
20 A. Yes.
21 Q. And one of the things -- there are four
22 things that it identifies as information that are
23 provided in these plays, and one of them is the hazards
24 of secondhand smoke, correct?
25 A. Yes.
26 Q. Mark this as the next exhibit.
27 (Defendants' Exhibit 495 was marked.)
28 //

70

1 BY MR. GROSS:
2 Q. I have placed before you Exhibit 495. Is
3 this a copy of another one-act play that was created as
4 part of The ATAC theatrical program?
5 A. Yes.
6 Q. And the control numbers are pretty faint;
7 so I'm going to ask you to turn instead to the number
8 that is the Page 4 of the document itself. There are
9 numbers on the right-hand corner. For the record,
10 that's Document No. SD000133 by the control numbers.
11 If you look at the bottom of that page and
12 read over to the top of the next page, is that a section
13 of the play talking about, among other things, health
14 effects associated with being around smoke?
15 A. Yes.
16 Q. So that's also an example of an
17 environmental-tobacco-smoke-type warning?
18 A. Yes.
19 Q. Can you estimate the time period during
20 which these plays have run? Not necessarily just these
21 two plays, but plays like these by The ATAC team.
22 A. Do you mean years or --
23 Q. Yeah. Over what time period has this been
24 something that's occurred?
25 A. Approximately since '96.
26 Q. '96 until present?
27 A. (Inaudible response.)
28 Q. And do you have any sense of the total

71

1 number of times these plays have taken place?
2 A. No.
3 Q. Do you think it's more than 50, or would
4 you have any way to estimate?
5 A. Generally, at a minimum, it's twice a
6 month, or it could be, you know -- generally, it's
7 twice, maybe three times, a month.

8 Q. Two or three times a month, one of these
9 plays takes place somewhere in the county?
10 A. Right.
11 Q. Is there a specific area of the county
12 where these are done?
13 A. It's divided into North County and then
14 South.
15 Q. Do you have a sense of how many children
16 tend to attend these?
17 A. It varies. It could be a very small
18 group, or it could be -- small, meaning around five, or
19 up to 25.
20 Q. How do they -- how are the children who
21 attend these solicited or gathered together? How do you
22 come across them?
23 A. Primarily through schools.
24 Q. So a school would say, "We're going to
25 have this play. It's going to occur," and would
26 encourage the kids to attend?
27 A. Right.
28 Q. It would be after school or something like

72

1 that?
2 A. Right.
3 Q. How are the -- when you said that this is
4 a subcontract, you mean the costs of putting on these
5 productions is funded by the subcontract?
6 A. Yes.
7 Q. How are the children who are the
8 performers selected?
9 A. We -- there's a recruitment through
10 schools, and then interviews and training and that type
11 of thing, so they're actually certified to do
12 presentations.
13 Q. Is one of the advantages of this format
14 that it teaches young children, the people who attend,
15 but it also reinforces lessons and information about
16 health effects of smoking or environmental tobacco smoke
17 for the performers as well?
18 A. Yes.
19 Q. Okay. Would more detail about the number
20 of these plays and their attendance be summarized in the
21 progress reports?
22 A. At least the number, I think, of plays.
23 Q. What did ATAC do before these plays?
24 A. The genesis of ATAC was a group of youth
25 that appeared in ads. So -- on TV or bus kiosk stands.
26 Q. Just to back up, ATAC is A-T-A-C? Is that
27 the acronym?
28 A. Yes.

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1 Q. When did the ATAC program start?
2 A. Around '93ish.
3 Q. So there were children in media ads around
4 1993?
5 A. Yes.
6 Q. Were those media ads ones that were
7 created by the -- by or at the direction of the County?
8 A. Yes.
9 Q. What kind of media ads were those? I
10 guess what I am asking is what types of media?
11 A. Meaning venue or creation?
12 Q. Well, I meant radio --

13 A. TV.
14 Q. -- television ads.
15 A. Television, and, again, the bus kiosks are
16 the most predominant.
17 Q. Okay. And did The ATAC come out of that,
18 or was that part of The ATAC program?
19 A. That was the -- no. That's how it was
20 created.
21 Q. Okay. And --
22 A. And that was with the public relations
23 firm, The Gable Group.
24 Q. During that time period, you mentioned
25 television ads. Were any of the television ads ads that
26 included messages about environmental tobacco smoke or
27 the effects of being around smoke?
28 A. Yes.

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1 Q. Could you -- were all of the ads of that
2 sort?
3 A. They were -- again, they were teens
4 commenting on the negative aspects of using tobacco
5 products.
6 Q. Which would include environmental tobacco
7 smoke?
8 A. Yes.
9 Q. And how many ads were there roughly, if
10 you can recall?
11 A. Roughly, four.
12 Q. And they aired in San Diego County?
13 A. Yes.
14 Q. Did they air outside of San Diego County?
15 A. There were a few that were on national TV,
16 yes.
17 Q. And so national TV, does that mean that
18 they were airing all over the state of California when
19 they aired?
20 A. Yes -- well, let me go back. I don't know
21 if it was all over the state of California, but I know
22 that there was some that were viewed outside of San
23 Diego.
24 Q. This is separate from the statewide media
25 campaign?
26 A. Yes.
27 Q. Were these ads all in English, if you
28 recall?

75

1 A. I'm trying to recall if we converted them
2 to Spanish or not. It may have been for the Spanish-
3 speaking station.
4 Q. But if it was, it was the same ad, but --
5 A. Just Spanish.
6 Q. Okay. And during -- how long a time
7 period did these ads air? You mentioned 1993. Was it
8 that year?
9 A. It was either -- it started around
10 Christmas. So it was -- it could have been through --
11 six months of '94 or something like that.
12 Q. So about a six-month time period?
13 A. About six months, yes. As long as the
14 contract.
15 Q. Do you know what kind of programs they
16 aired on? Was it programs that were targeted towards
17 children?

18 A. Yes.
19 Q. So the idea was to use children to reach
20 children about the health effects of tobacco, including,
21 but not limited to, environmental tobacco smoke?
22 A. Yes.
23 Q. You mentioned bus shelters or bus kiosk
24 placards, I guess?
25 A. Right.
26 Q. Are those -- were those the same sort of
27 thing? Did they tie into the television campaign?
28 A. Yes.

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1 Q. So those would be placards of children --
2 A. Of local youth.
3 Q. How were the local youth selected for
4 this?
5 A. The Gable Group did a -- I was going to
6 say -- cattle call, but they literally advertised.
7 Q. So they advertised about trying to have --
8 get children to be involved in this media program?
9 A. Yes.
10 Q. Did they get a wide response? Were there
11 a lot of children that wanted to do it?
12 A. They had a good response.
13 Q. What did The ATAC program do, or did The
14 ATAC program do anything other than this one media
15 campaign that we just discussed and later theater
16 programming?
17 A. That was it.
18 Q. But it's still -- the theater part is
19 still ongoing?
20 A. Yes.
21 Q. Do you have any sense of what the total
22 expenditures are, have been, on that program?
23 A. No, I don't.
24 Q. Since we're already on the subject of
25 youth-related programming, I thought I would take you
26 through some other youth-related materials I found in
27 the stuff that you produced to us. Can you describe
28 what the Tobacco Trap Program is, Tobacco Trap

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1 materials?
2 A. The Tobacco Trap was a -- or is -- was,
3 is -- a board game.
4 Q. Is that a board game that your program
5 created?
6 A. Yes.
7 Q. And what is the board game? Describe for
8 me the board game, if you could. What's on there?
9 A. I'm trying to think of what to compare it
10 to. I guess Shoots and Ladders would be close, inasmuch
11 as you roll dice, and, you know, you get to a certain
12 point, and you have to answer questions, or take a card
13 and answer that question. You get to move forward. If
14 you end up in a tobacco trap, then you have to answer
15 questions to get out of that.
16 Q. Did the questions and the game materials
17 have -- contain or incorporate within them information
18 about environmental tobacco smoke health risks?
19 A. Yes.
20 Q. So it's a significant portion of what the
21 game -- you know, the game's educational message?
22 A. Not particularly. It was pretty even on

23 tobacco products period and with mention of
24 environmental tobacco smoke as well.

25 Q. So you mean it's sort of balanced between
26 the various types of messages about tobacco smoke, of
27 which environmental tobacco smoke is one?

28 A. Yes.

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1 Q. How has the -- how has your program used
2 that game? What have you done with it?

3 A. That game was distributed to schools
4 throughout the county.

5 Q. For use -- how were the schools to use
6 them?

7 A. If they wanted to use it as one of their
8 modules, they could use the game.

9 Q. So sort of an educational tool --

10 A. Yes.

11 Q. -- to be used for schools?

12 A. Yes.

13 Q. Do you know if schools used them?

14 A. To what degree, I do not know.

15 Q. Do you know if they were used at all?

16 A. I -- I don't know.

17 Q. They were distributed to all the schools
18 in San Diego County?

19 A. Yes.

20 Q. When were they distributed?

21 A. Age-appropriate schools. They weren't in
22 high school. They were the lower grades.

23 Q. So grammar school, middle school? Or just
24 grammar schools?

25 A. I believe it was starting with grammar
26 schools.

27 Q. And do you know when they were
28 distributed?

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1 A. No, I would have to try to figure it out.

2 Q. Can you --

3 A. It's a few years --

4 Q. Was it mid '90s?

5 A. At least the mid '90s. It was a few years
6 after they were developed.

7 Q. Were they distributed more than one time?

8 A. It was supposed to be one mailout.
9 Whether it happened in two segments, you know, that's
10 possible.

11 Q. Has that game been distributed to any
12 other entities other than the schools?

13 A. At some conferences, they have been
14 available for sale.

15 Q. Conferences, does that mean things like
16 health fairs and where the general public is at?

17 A. Yes.

18 Q. Mark this exhibit next in order.
19 (Defendants' Exhibit 496 was marked.)

20 BY MR. GROSS:

21 Q. I put before you a document that's marked
22 as No. 496. Do you recognize that document?

23 A. Yes.

24 Q. Is this part of the Tobacco Trap game, or
25 is it something else?

26 A. This is an accompanying lesson plan if it
27 was used as a classroom activity.

28 Q. So this is a -- sort of a curriculum 80

1 lesson plan, and the part that I have included in this
2 document is the part that's on secondhand smoke. Is
3 that correct?

4 A. Correct.

5 Q. And it provides information about health
6 effects associated with environmental tobacco smoke, and
7 then at the end of it, it has a worksheet, a quiz,
8 basically. Is that right?

9 A. Yes.

10 Q. And was this distributed along with the
11 games?

12 A. Yes.

13 Q. For use in the schools? Correct?

14 A. Yes.

15 Q. Mark this exhibit next in order.
16 (Defendants' Exhibit 497 was marked.)

17 BY MR. GROSS:

18 Q. I have placed before you Exhibit 497,
19 which is entitled Photo-Talk about Tobacco. Do you
20 recognize this document?

21 A. Only as much as it's material that we have
22 used.

23 Q. And what is this -- I notice this is a --
24 would you agree this is some sort of an educational or
25 warning material about -- that warns about, among other
26 things, the health effects of environmental tobacco
27 smoke?

28 A. Yes, but it's not something that we 81

1 created.

2 Q. I see. This reference of the smoking
3 trap, is that unrelated to the Tobacco Trap program?

4 A. Oh, directly, yes. I mean, this is not a
5 part of this.

6 Q. Right. That's just a coincidence. I see.
7 Do you know how this -- what would you call this piece
8 of warning material? I'm struggling for the right -- is
9 this a pamphlet?

10 A. I don't know. Is this the one that Santa
11 Cruz created? It has that on it.

12 Q. I can't tell you. It looks like it's from
13 the Tobacco Clearinghouse.

14 Do you know how this was used in this
15 county?

16 A. Again, it would be something that would be
17 available for distribution if we have this.

18 Q. Do you know whether you actually
19 distributed this --

20 A. I don't know how often we did, if we did.

21 Q. If you had it, does it mean that you
22 probably did distribute it?

23 A. Yes, but I don't know how frequently.

24 Q. Would this be something that you would
25 distribute to teenagers, just looking at the ages of the
26 people on the --

27 A. Yes.

28 Q. Mark this as exhibit next in order. 82

1 (Defendants' Exhibit No. 498 was marked.)

2 BY MR. GROSS:

3 Q. I have placed before you Exhibit 498,

4 which is a newspaper article. Do you recognize this
5 article?
6 A. That's the casting call.
7 Q. Okay. So this is the 19 -- this is the
8 19 -- looks like it's 1993. Does that sound right to
9 you?
10 A. Yes.
11 Q. Teen Sought for Campaign against Smoking.
12 I see. So this is a description of The ATAC campaign.
13 A. Yes.
14 Q. Which actually says, "Drop the Pack, Join
15 the A.T.A.C."?
16 A. Right.
17 Q. There's a reference down towards the
18 bottom. It says, "The campaign, spearheaded by San
19 Diego County, is in conjunction with Z90-FM and XETV,
20 Channel 6"?
21 A. The Gable Group is the one that -- again,
22 this is the contract with The Gable Group.
23 Q. What did Z90-FM and XETV, Channel 6 do?
24 A. They were the ones that aired the ads.
25 Q. Did you pay for the ads, or did they air
26 them as public service announcements?
27 A. No. They were paid through -- again, we
28 didn't pay them directly. It was a contract with The

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1 Gable Group.
2 Q. Sure. Did the radio station and
3 television station do any kinds of other promotional
4 material that tied into the actual aired commercials?
5 A. There may have been -- there may have been
6 bumper stickers or something or stickers of some kind.
7 Q. Okay. Let's mark this next exhibit.
8 (Defendants' Exhibit No. 499 was marked.)
9 BY MR. GROSS:
10 Q. I hand you Exhibit 499. Is this a copy of
11 the commercial air times for the ATAC media commercials?
12 A. Yes, it appears to be.
13 Q. Where it lists, for example, on the first
14 page, XETV Channel 6, 2:30 to 5:30 p.m. on
15 September 20th, do you know what that means about how
16 often the spot ran during that time period?
17 A. I don't know how often or if that was the
18 time slot that it would have to have run at least one
19 time. I don't know the frequency.
20 Q. At the bottom, it indicates that the spots
21 will also rotate on MTV. Is that your recollection?
22 A. Yes.
23 Q. KNSD, is that a radio station?
24 A. I think so.
25 Q. And KUSI 51, is that a television station?
26 A. That, I know, is a television station.
27 Q. Turn to the third page. Do you see, on
28 the left-hand column, it has TV radio, bus stations,

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1 movie theaters, and radio promotions. Are those all
2 forms of media that were used for this ATAC media
3 campaign back in 1993?
4 A. Yes.
5 Q. What's the difference between radio
6 promotions and radio, if you know?
7 A. Radio was actually airing the ad. The TV
8 spots were the ads, and then they took the voice from

9 the ad and aired it in one radio as opposed to radio
10 promotions. As you can see, it says casting call. So
11 it's the promotions that were done surrounding the ad
12 campaign. So they promoted the casting call and radio
13 and that type of thing.

14 Q. I guess that's an example of what I was
15 talking about before with tie-ins, I take it, something
16 that actually isn't the ad itself, but is media that
17 takes place surrounding the ad?

18 A. Right.

19 Q. How about movie theaters; does this
20 refresh your recollection that also there were movie
21 theater ads?

22 A. Yes, on the movie trailers.

23 Q. Okay. We have now gone through a number
24 of different youth-focused tobacco programs that your
25 office has done over time or subcontracted with others
26 to do over time. Are there any other youth-related
27 programs that your program has done? For example, I saw
28 references to something called 93 smoke-free days?

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1 A. 93 smoke-free days of summer was a
2 contract with the 93.3 radio station last year.

3 Q. Okay. And can you describe for me
4 generally what that was, that program?

5 A. Well, first, it was airing tobacco-free
6 lifestyle messages on the radio station. They
7 incorporated 93 smoke-free days of summer on their logo.
8 They had a smoke-free concert. That was -- that's the
9 main focus.

10 Q. Could we go off the record for a minute.
11 (A discussion was held off the record.)
12 (The last question was read back.)

13 BY MR. GROSS:

14 Q. You had mentioned a tobacco-free
15 lifestyle. How was that promoted in the 93 days'
16 promotion, 93 smoke-free days' promotion?

17 A. I guess I would say that it's promoting a
18 lifestyle rather than to say don't smoke. Promoting not
19 using tobacco products.

20 Q. Was there any component of the 93
21 smoke-free days program that related to avoiding
22 environmental tobacco smoke or avoiding being around --

23 A. Yeah.

24 Q. So you mentioned that this was -- the
25 contractor was a radio station. Were they putting out
26 ads that promoted avoidance of smoking or avoiding
27 environmental tobacco smoke?

28 A. There were so many air times; so the disc

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1 jockey would, you know, depending on the number of
2 times, say something to the effect, and/or they would
3 justice their support of, 93 smoke-free days of summer.

4 Q. I see. What exactly was the 93 smoke-free
5 days of summer? Was there anything other than -- you
6 mentioned a concert.

7 A. Mm-hmm. They kicked it off with a
8 concert.

9 Q. Where was -- how big a concert was that?

10 A. You mean attendance?

11 Q. Yeah. Do you know the size?

12 A. Thousands.

13 Q. So it took place in a facility that houses

14 thousands?
15 A. San Diego State University, actually.
16 Q. And the radio station promoted the
17 concert?
18 A. Yes.
19 Q. And then at the concert, how was the
20 smoke-free theme promoted?
21 A. There were banners and reminded people
22 that they couldn't smoke during this event. And on
23 stage, they would, you know, mention it.
24 Q. The performers would --
25 A. Well, the disc jockeys.
26 Q. I see.
27 A. Well, disc jockeys.
28 Q. What else took place, what other events
87
1 took place, other than the convert during the 93
2 smoke-free days' campaign?
3 A. They had a -- I'm trying to think. They
4 had the contest for youth at schools. They had
5 giveaways. They had promotional items.
6 Q. And those would be things like T-shirts
7 and coffee cups?
8 A. Key chains.
9 Q. Did those have --
10 A. 93 smoke-free days. They're local. It's
11 93.3. It's their logo, and then they wrapped around the
12 93 smoke-free days.
13 Q. What did -- The contest for youth at the
14 schools, what was that contest about?
15 A. Well, they were looking for youth to --
16 well, how would they promote smoke-free lifestyle or
17 tobacco-free lifestyle.
18 Q. So they were looking for youth that would
19 be representatives who could help to promote this? Is
20 that what you mean? Or like sort of looking for people
21 who they could hold up as good examples of --
22 A. In some ways.
23 Q. Have there ever been any youth conferences
24 that have been sponsored or jointly sponsored by the
25 Tobacco Control Program in San Diego that relate to
26 tobacco smoke issues?
27 A. Yes. The Youth Summit.
28 Q. What's the Youth Summit?
88
1 A. Well, there's a prevention summit. Magnet
2 event that draws from the different schools in the area.
3 Q. Is that a San Diego program, or is it a
4 broader program?
5 A. It's San Diego.
6 Q. When does that take place? Is there an
7 annual event?
8 A. It has been, yes.
9 Q. For -- since '91, roughly, or more
10 recently?
11 A. No. I would say since '95ish.
12 Q. And what takes place? Is the tobacco
13 summit a one-day event?
14 A. One day, yes.
15 Q. What takes place during that one day,
16 generally? Are there speakers?
17 A. Yes. There are speakers and small groups
18 addressing different issues, making statements on how

19 they feel things should proceed.
20 Q. And some of those speakers or statements
21 are messages about environmental tobacco smoke?
22 A. Yes.
23 Q. Would you like to take a break?
24 A. No.
25 Q. Do you have a sense of how many youth --
26 how many children attend this event annually? Is it
27 100? More than 100?
28 A. It's more than 100.

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1 Q. Is it more than 1,000?
2 A. No. I'd say roughly around 500, but I'm
3 not exactly sure.
4 Q. So about 500 students. Is there a
5 specific age group that this event focuses on?
6 A. Usually, it's middle to teens.
7 Q. So like 10 to 14, thereabouts?
8 A. Or 12 to 16.
9 Q. Okay. And the idea of this summit is sort
10 of getting the students away from other distractions and
11 to really focus on tobacco-related issues for a day?
12 A. Yes.
13 Q. Are there any other youth conferences that
14 you can think of that the Tobacco Control Program has
15 been involved in that relate to tobacco smoke issues?
16 A. There's participation in the -- there's a
17 Substance Abuse Conference, and, again, we have -- or
18 have participated in --
19 Q. Is that a county-wide conference?
20 A. Yes.
21 Q. And that's -- but it's about substance
22 abuse generally, and a component of that through your
23 participation has been tobacco-related?
24 A. Tobacco.
25 Q. Is that an annual event?
26 A. Yes.
27 Q. What is the age group that attends that
28 conference?

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1 A. This isn't -- I mean, this isn't only
2 youth. There's some youth that attend, but it's also
3 adults that participate through organizations or
4 agencies.
5 Q. Are the people that participate people who
6 have had past substance abuse problems, or are they just
7 anybody?
8 A. Usually, providers of services.
9 Q. I see. And at these conferences, would
10 your program provide information about environmental
11 tobacco smoke?
12 A. Yes.
13 Q. Has that program gone on every year, or
14 was that something that's only happened more recently?
15 A. It's been more recent in terms of looking
16 at tobacco as a plank of a conference.
17 Q. So the last few years, there has been a
18 tobacco component. Before that, there wasn't?
19 A. Right.
20 Q. Do you have a sense -- an estimate of how
21 many people from San Diego typically attend that
22 conference? Is it similar to the Youth Summit?
23 A. Hundreds.

24 Q. It's in the hundreds?
25 A. Yes.
26 Q. I saw references to something called a
27 Youth Task Force. Is that a component of the Tobacco
28 Control Coalition?

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1 A. Yes.
2 Q. Did they do -- do they have a role in
3 providing educational and warning information to San
4 Diego youth about tobacco smoke issues?
5 A. Yes.
6 Q. Are their activities separate and apart --
7 I guess the best way to put it -- in addition to the
8 other activities that we have just described?
9 A. Yes.
10 Q. Do you know what the Youth Task Force has
11 done by way of educating youth on tobacco issues
12 recently?
13 A. One of their roles is, again, to identify
14 different organized efforts, if you would, on how they
15 can present materials or information during these --
16 like a conference or that type of thing.
17 Q. Did they identify the -- let's start
18 again.
19 Do they identify the events, or do they
20 actually organize the events?
21 A. Well, some are identified. They, in
22 particular, do not necessarily have an event.
23 Q. So they find events, for example, that
24 are -- whether it be a health fair -- some event that's
25 a general community event, and they take steps to put a
26 tobacco-related issue into that event?
27 A. Right.
28 Q. I see. Does the Tobacco Control Program

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1 do that as well? An example would be the substance
2 abuse program that you just talked about.
3 A. Yes.
4 Q. Does it do it in other contexts, too?
5 A. I'm not sure --
6 Q. Actually, let's not go down that route
7 anyway. Let's continue to focus on youth for now.
8 So if I'm understanding correctly,
9 basically, the Youth Task Force provides a presence at
10 various community events, and the presence provides --
11 comes in the form of warning information and warning
12 programs about tobacco smoke?
13 A. Right.
14 Q. And those include environmental tobacco
15 smoke?
16 A. Yes.
17 Q. Has the Youth Task Force been around since
18 the inception of the Prop. 99 program?
19 A. I don't know what year. I know we formed
20 subgroups from the coalition at certain points in time.
21 So from the very onset, no, but within a number of years
22 from that.
23 Q. So in the early '90s, the Youth Task Force
24 came into existence?
25 A. Yes.
26 Q. Has it been active throughout that time
27 period from the early '90s to now?
28 A. It's been active. It's ebbed and flowed

1 in terms of participation, but --

2 Q. Are there certain periods where it's been
3 particularly active that you can identify?

4 A. Not really.

5 Q. What other youth activities other than the
6 ones we have spoken about so far do the -- does the
7 Tobacco Control Program perform or fund? And that
8 question, I guess, really is from 1990 to now if you can
9 think of any other ones other than the ones we have
10 already discussed.

11 A. We have participated in some of the State
12 activities.

13 Q. Those are activities about advertising
14 towards youth? Is that right?

15 A. Right. And merchant survey. We have
16 participated in that. That was through the coalition.
17 They're the ones that organized that.

18 Q. Did those have any ETS component to them?

19 A. The merchant survey -- well, they would,
20 inasmuch as there's advertising. It was to remove
21 advertisements. So if there was any advertisements that
22 related to the ETS, then, yes.

23 Q. I mean, can you think of any
24 advertisements that related to ETS?

25 A. Well, you know, actual visuals of smoking,
26 that type of thing.

27 Q. I see what you are saying.

28 You mentioned, when we were going through

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1 subcontractors, you mentioned The ATAC, but you also
2 mentioned youth. What did that refer to? Is that
3 something separate from ATAC, or was that really ATAC?

4 A. I don't know what I was referring to.
5 More than likely, it was The ATAC team as well.

6 Q. So there isn't some other subcontract --

7 A. That's youth, no -- oh, oh. It may have
8 been the individual youth that I was talking about that
9 are the ones that make up The ATAC group.

10 Q. I see. So they get some sort of funding
11 to do what they are doing?

12 A. Right, they get paid.

13 Q. I see. You mentioned the San Diego State
14 University Foundation as a subcontractor. Have they
15 been a subcontractor for the entire time of the program?

16 A. Not for the entire time, but probably mid
17 '90s.

18 Q. What do they do?

19 A. It's really a fiduciary body; so -- like
20 the media campaign that happened last year with the
21 radio station, Padres, et cetera, money is budgeted in
22 the foundation, and then they would actually pay --

23 Q. They pay others who actually do warning
24 educational work?

25 A. Right. Those contracts were run through
26 the foundation, if you would.

27 Q. So that's like if you gave money, like
28 sometimes happens, to -- I don't know if you do this,

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1 but other counties do -- like American Lung for their
2 programs. Well, let me back up because I guess American
3 Lung has its own program.

4 A. Right. But we also have individuals that

5 are hired; so we have contract employees as well as
6 County employees working on the Tobacco Control Program.
7 Q. And other contract employees, do they have
8 anything to do with the San Diego State University
9 Foundation?
10 A. They are hired through the San Diego State
11 University Foundation.
12 Q. I see. So your contract employees are
13 hired through that contract -- subcontract?
14 A. Right.
15 Q. Is there anything else that that
16 subcontract is used for other than hiring your contract
17 employees?
18 A. Well, again, some of the subcontracts are
19 paid through that budget.
20 Q. That's some of the other subcontracts that
21 you actually identified for me?
22 A. Right.
23 Q. So the San Diego State University
24 Foundation doesn't itself provide any kind of warning or
25 educational function?
26 A. No.
27 Q. You mentioned the San Diego Padres
28 organization.

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1 A. Yes.
2 Q. What have they done?
3 A. We contracted with them last year and
4 Channel 4 TV who are the Padres station -- or where all
5 the Padres games are viewed -- or aired, rather, and
6 they did commercials. The Padres organizations and the
7 County of San Diego Health and Human Services agencies
8 support a tobacco-free lifestyle, and we had different
9 Padre players that did brief testimonies.
10 Q. Did any of those contain any information
11 or testimonials about the dangers of being around
12 tobacco smoke or environmental tobacco smoke?
13 A. It was supporting a tobacco-free
14 lifestyle. I think it really focused more on not using
15 tobacco.
16 Q. Not on, for example, telling smokers not
17 to use tobacco around their family or children or
18 anything like that?
19 A. No. I think it was more towards playing
20 sports, you know, you wouldn't use tobacco or that type
21 of thing.
22 Q. I see. You mentioned the 93.3 radio
23 station. Did they do anything other than the 93
24 smoke-free days campaign?
25 A. No.
26 Q. You mentioned the Union-Tribune. What did
27 they do?
28 A. They had a sport show, actually. They did

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1 highlights of different youth sporting events in the
2 county, and they would highlight one a week. And during
3 that highlight, they would put an ad saying that this is
4 sponsored by the County of San Diego supporting a
5 tobacco-free lifestyle.
6 Q. I see. So when you said they would
7 highlight, would there be a story or coverage in their
8 paper about --
9 A. Well, there was that as well. There was

10 coverage in the paper. There was actually a TV show
11 that they sponsored. That's the sport highlight piece.
12 Q. I see. And they put on an ad, you mean,
13 like a commercial during the broadcast?
14 A. Mm-hmm. Yes. I'm sorry.
15 Q. And that commercial would make statements
16 in support of a tobacco-free lifestyle?
17 A. Yes, at the event itself. And I think
18 there were three -- that there were cheer cards made;
19 and on the front, it would be cheering whatever team it
20 was. On the back was messages about the health effects
21 of the use of tobacco.
22 Q. Would it include the health effects on
23 environmental tobacco smoke?
24 A. I believe it did.
25 Q. And those messages, those placards, would
26 be shown on television during the game? Is that the
27 idea?
28 A. Yes.

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1 Q. And when did these events take place? Was
2 this last year or recently?
3 A. It was last year.
4 Q. You mentioned Richard Serpe, I believe,
5 who is the evaluator for the program?
6 A. Yes.
7 Q. Does he provide reports that are
8 evaluations of the efficacy of the program?
9 A. He has developed surveys that have been
10 used by the program.
11 Q. What do those surveys ask? Does it ask
12 about awareness? What do they focus on?
13 A. Awareness predominantly.
14 Q. Of people in the county of San Diego --
15 A. Yes.
16 Q. -- and its awareness of the health effects
17 of tobacco smoke and environmental tobacco smoke?
18 A. And when the bars were to become
19 smoke-free, people knew that that was the case, that
20 there was a law that said --
21 Q. Good?
22 A. Yes.
23 Q. Knowledge about and levels of support for
24 the ordinance? Is that the idea -- or rather the law?
25 A. Yes.
26 Q. I think I have seen some documents that
27 relate specifically to the bars and surveys related to
28 the bars. Are there any other surveys? Because I

99

1 didn't see any others in the documents that were
2 produced to me.
3 A. It was primarily surrounding the bars.
4 Q. Has he been doing evaluation for the
5 program for the entire time the program has been in
6 existence?
7 A. No.
8 Q. When did he start, roughly? Mid '90s?
9 A. Yes, roughly mid '90s.
10 Q. So he has done some surveys about bars and
11 the knowledge about and public acceptance of the laws
12 about -- laws prohibiting smoking in bars?
13 A. That's correct.
14 Q. What else has he done surveys about?

15 A. Any of the pre-test or post-test or
16 surveys that have been conducted, he has looked at or
17 given input on, that type of thing. But on the
18 awareness and knowledge, he actually conducted a
19 telephone survey.

20 Q. When was that done?

21 A. It was a couple of years ago.

22 Q. Did the telephone survey have questions
23 relating to the public awareness of the health effects
24 of the environmental tobacco smoke?

25 A. I believe there was a question on that.

26 Q. I didn't see that document in the
27 documents produced. Do you know if it was produced?

28 A. I do not.

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1 Q. Do you know if it's in existence?

2 A. I don't for certain, but I certainly could
3 check.

4 Q. For the record, it would be nice if you
5 could get a chance, if you could go back and look and
6 see, because that might be a useful form of document to
7 have. Do you know what the survey results were with
8 respect to public knowledge about the health effects of
9 environmental tobacco smoke?

10 A. Not that one particular question, no. I
11 would have to go back and look at the results.

12 Q. You mentioned The Gable Group, which we
13 will get to. Are there any other subcontractors that
14 you can think of that the Tobacco Control Program has
15 used other than the ones that we have discussed already?
16 And other than The Gable Group.

17 A. There was one very early on in the
18 program, and that was OB-GYN & Associates, and they're
19 no longer in existence now, but that was providing
20 information to pregnant women.

21 Q. Would that be information both about the
22 effects of smoking and the effects of being around
23 tobacco smoke?

24 A. Yes.

25 Q. Is that in the early '90s, basically?

26 A. Yes.

27 Q. And how did they provide that information?
28 Was it through flyers or direct interventions or --

101

1 A. It was direct information given to the
2 clients in some of the classes as they went through
3 their prenatal classes.

4 Q. I see. So this had contacts with
5 prenatal --

6 A. Women were actually coming to the clinic,
7 yes.

8 Q. The clinic?

9 A. Well, the OB-GYN & Associates, the medical
10 group.

11 Q. I see. So that's actually a medical group
12 that has -- I understand now. They are a group that
13 provides -- generally speaking, provides prenatal and
14 probably birth --

15 A. Yes, it was a birthing center.

16 Q. Okay. They received money from your
17 program that allowed them to incorporate, into what they
18 would normally do, information about exposure to tobacco
19 smoke or environmental tobacco smoke?

20 A. Right.
21 Q. We have talked a fair amount about warning
22 programs and educational programs that the Tobacco
23 Control Program has performed or funded for children. I
24 want to talk a little bit about the same types of
25 things, but directed towards parents and mothers.
26 Has the program ever engaged in any sorts
27 of campaigns or events or even just discrete warning
28 programs that focus on parents and reducing exposure by
102
1 parents, reducing parents' exposure of ETS to kids?
2 A. Yes.
3 Q. I saw references in the documents to
4 something called a Women's Program. Does that -- is
5 that a discrete program, or is that just a general
6 reference?
7 A. That was -- I don't know if that was --
8 there was a component. If you notice, going through all
9 the progress reports, the emphasis has changed over
10 time. If that's what you are referencing, there was a
11 component of women and children -- not women and
12 children -- women and young -- well, I guess it was
13 women and children.
14 Q. When did the focus -- when did a focus on
15 women and exposure to children -- exposure of children
16 to ETS, when did that become more heavily emphasized by
17 your program?
18 A. Well, it actually started in '91, '92, and
19 there was -- any part of that that was a women's
20 program, it was emphasized, and then perinatal money was
21 devoted to another -- to the maternal and child health
22 section. They also emphasized it.
23 Q. Generally speaking, how were -- how was
24 warning and educational information provided to women by
25 the program?
26 A. We actually developed a curriculum as well
27 as materials that could be used by providers. There
28 were desktop flip charts, that type of thing, that,
103
1 again, could actually be used by providers.
2 Q. When you say, "by providers," you mean
3 healthcare providers?
4 A. Yes.
5 Q. Would you distribute these various
6 materials to healthcare providers?
7 A. Yes. By and large, to community clinics,
8 that type of thing.
9 Q. Community clinics, are those clinics that
10 provide subsidized healthcare, or are they just private
11 clinics?
12 A. I never thought about it that way, but
13 they were community clinics.
14 Q. I guess what I am saying, are they for
15 lower income healthcare?
16 A. Predominantly.
17 Q. This is probably a good time to take you
18 through some documents that seem to be along the lines
19 as you described that were in the things that were
20 produced to us.
21 Could you mark this exhibit next in order.
22 (Defendants' Exhibit No. 500 was marked.)
23 BY MR. GROSS:
24 Q. Before we actually discuss this one, I

25 just want to make sure I understood an earlier answer
26 you gave. I take it then that educating women about
27 health effects of environmental tobacco smoke on their
28 children has been something that the program has done

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1 all along from '91 until now at varying levels of
2 intensity?

3 A. Yes.

4 Q. And perhaps the programs and intensity was
5 a little less during the period when there was money
6 going to the perinatal program to do it?

7 A. Yes.

8 Q. And more during the time periods when
9 that -- when that was no longer true?

10 A. Right.

11 Q. Okay. I put in front of you what looks to
12 me to be a flyer that was in both English and in Spanish
13 about smoking in the house. Is that a correct summary
14 of what this is?

15 A. Yes.

16 Q. Is this one of the flyers that you would
17 provide to healthcare providers to provide to
18 individuals?

19 A. Yes.

20 Q. Do you know if this specific one was
21 provided to healthcare providers?

22 A. Yes, it was.

23 Q. And am I correct that this is in English
24 and in Spanish?

25 A. Yes.

26 Q. And it indicates that exposure to
27 environmental tobacco smoke in the home can cause
28 allergies, asthma, ear infections, chest colds, and

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1 increase the risk of sudden infant death syndrome. Is
2 that right?

3 A. Yes.

4 Q. There's a phone number on this. 1 (800)
5 7-No-Butts is the phone number. Is that a hot line for
6 tobacco cessation that the County administers?

7 A. It's a tobacco cessation, but the County
8 does not administer it. This is an independent contract
9 with the Tobacco Control section of the State.

10 Q. Did they provide -- when someone calls in
11 to them, do they provide warning information to people
12 who want to know about health effects?

13 A. Yes, but, predominantly, it's to sign up
14 for counseling for cessation.

15 Q. The tobacco cessation programs, just
16 generally speaking --

17 A. Mm-hmm.

18 Q. -- in the county is a component of those
19 programs educating the people who are trying to stop
20 smoking about the effect of their tobacco smoke on
21 others?

22 A. To some extent, yes.

23 Q. Can you mark this exhibit next in order.
24 (Defendants' Exhibit 501 was marked.)

25 BY MR. GROSS:

26 Q. When you referred to flip charts before,
27 is Exhibit 500 an example of a flip chart?

28 A. This is not one we produced.

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1 Q. But is that what this is?
2 A. I don't know.
3 Q. Do you know whether this piece of written
4 warning material, whatever we want to call it exactly --
5 A. This looks like ads almost.
6 Q. Do you know if this was distributed to
7 people in San Diego County?
8 A. No, I don't.
9 Q. Okay. Mark this next exhibit.
10 (Defendants' Exhibit No. 502 was marked.)
11 BY MR. GROSS:
12 Q. I place before you Exhibit 502. Do you
13 recognize this?
14 A. It's materials.
15 Q. I'm sorry. What type of materials?
16 A. From local groups. We usually -- meaning
17 the program usually gets different materials that they
18 would distribute.
19 Q. So the March of Dimes has a local San
20 Diego Chapter that distributes these -- this pamphlet
21 about giving your baby a healthy start, stop smoking?
22 A. Yes.
23 Q. Did the Tobacco Control Program distribute
24 this pamphlet as well or just the March of Dimes?
25 A. No. Generally, if we have the materials
26 available, we will distribute them at health fairs and
27 that type of thing.
28 Q. Was this also something that you would

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1 distribute to health providers?
2 A. No, we wouldn't do that.
3 Q. So this was --
4 A. More public.
5 Q. -- that you would put -- that you would
6 distribute to the general public?
7 A. Right.
8 Q. And it has information about the health
9 effects of secondhand smoke on babies, correct?
10 A. Yes.
11 Q. Would you mark this exhibit next in order.
12 (Defendants' Exhibit 503 was marked.)
13 BY MR. GROSS:
14 Q. Do you recognize -- I'm sorry. This is
15 Exhibit No. 503. Do you recognize this pamphlet called
16 Photo-Talk About Tobacco?
17 A. Yes.
18 Q. Does this pamphlet provide warnings
19 about -- provide information about the effect of tobacco
20 smoke on small children?
21 A. Yes.
22 Q. Do you know how this -- Was this
23 distributed?
24 A. Yes.
25 Q. To whom was this distributed?
26 A. Again, it would be at public venues.
27 Q. Public health fairs, county fairs?
28 A. Right.

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1 Q. Do you know the time frame in which this
2 one specifically was distributed?
3 A. No.
4 Q. And the second -- the third and fourth
5 pages of this exhibit, is that the same thing in

6 Spanish?
7 A. It appears to be.
8 Q. At health fairs, were warning materials
9 such as this that relate to environmental tobacco smoke
10 typically distributed by the program or by entities
11 funded by the program?
12 A. Yes.
13 Q. Did they come in languages other than
14 English and Spanish, or were those the two languages
15 that they came in?
16 A. Those are the two.
17 Q. Is that because Spanish is the next most
18 predominant language?
19 A. Yes.
20 Q. Could you mark this exhibit next in order.
21 (Defendants' Exhibit No. 504 was marked.)
22 BY MR. GROSS:
23 Q. Do you recognize this pamphlet that's
24 entitled Smoking and the Two of You?
25 A. Only by the American Lung Association
26 logo.
27 Q. And the stamp that says Distributed by the
28 American Lung Association of San Diego and Imperial
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1 Counties, does that mean that this is a document that
2 they distributed to the public?
3 A. Yes.
4 Q. To whom does the American Lung Association
5 San Diego County typically distribute flyers like this?
6 A. At their different events, but then they
7 would give their flyers to our programs as well.
8 Q. So you would in turn distribute flyers
9 like this at health fairs and things of that nature?
10 A. Yes.
11 Q. How about to health providers? Is this
12 one that would go to health providers?
13 A. We wouldn't distribute to them. I don't
14 know if they do.
15 Q. What distinguishes the types of materials
16 that are provided to health providers as opposed to ones
17 that are provided to health fairs?
18 A. The ones that we provided to health
19 providers were ones that were specifically developed for
20 that particular module, if you would, when we were doing
21 that program.
22 Q. So they are more tailored to --
23 A. The population.
24 Q. How are they more tailored? Were they
25 different languages or --
26 A. In some instances, different languages and
27 others, again, if we were targeting women or pregnant
28 women or women with families, then we would develop
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1 materials specifically to that.
2 Q. So far, most of these materials that we
3 have gone through are not the ones that you developed
4 yourself, but there are materials that are similar to
5 the ones that we are looking at here, but that were
6 developed by the Tobacco Control Program itself?
7 A. Maternal and child health are the
8 particular ones, yes.
9 Q. And those ones, like these ones, include
10 discussions about the effect of environmental tobacco

11 smoke on babies and young children?
12 A. Yes.
13 Q. Would you mark this exhibit next in order?
14 (Defendants' Exhibit No. 505 was marked.)
15 BY MR. GROSS:
16 Q. Do you recognize this pamphlet or flyer
17 about Smoking and Pregnancy, Exhibit 505?
18 A. Yes.
19 Q. Was this distributed in San Diego County?
20 A. Yes.
21 Q. Do you know when it was distributed in San
22 Diego County? Over the years, generally, or --
23 A. I guess from the onset when it was
24 developed.
25 Q. This is something that was developed by
26 the -- by a group called Tobacco Free California. Is
27 that right?
28 A. Yes.

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1 Q. Who are they?
2 A. It's a group of --
3 Q. Maybe I should help simplify.
4 A. Good.
5 Q. Is it a group that does -- among other
6 things -- generally produces warning materials about
7 tobacco smoke?
8 A. Yes.
9 Q. And you use their materials from time to
10 time?
11 A. Yes.
12 Q. Would this be something that you would use
13 at a health fair and other community events?
14 A. Yes.
15 Q. Please mark this exhibit next in order.
16 (Defendants' Exhibit 506 was marked.)
17 BY MR. GROSS:
18 Q. I place before you Exhibit No. 506. Do
19 you recognize these documents? There's more than one
20 document here.
21 A. Yes.
22 Q. Are these documents -- Well, besides the
23 article from The Sacramento Bee -- strike that.
24 Aside from the last pages of this
25 document, are the remainder of these documents that were
26 created by the Tobacco Control Program in San Diego?
27 A. No, these weren't created by us.
28 Q. Do you know who created these?

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1 A. It just looks like snip-its from what the
2 American Lung Association puts out.
3 Q. And this first one, is this an ad that's
4 published in media about the health effects of
5 environmental tobacco smoke on children?
6 A. It looks like it.
7 Q. So you're not specifically familiar with
8 it?
9 A. Not this front one, no. I know -- well --
10 Q. What are you familiar with in this?
11 A. Well, the health effects of secondhand
12 smoke. This was all standard kind of language that they
13 have used, secondhand smoke facts.
14 Q. I see. And they incorporate this language
15 about secondhand smoke into their written warning

16 materials?
17 A. Right. Right.
18 Q. That's the American Lung Association?
19 A. Right. On the back is Americans for
20 Nonsmokers' Rights.
21 Q. Do both of those groups distribute written
22 materials like these that relate to environmental
23 tobacco smoke in San Diego County?
24 A. Yes.
25 Q. Have they both done so since the beginning
26 of the Tobacco Control Program?
27 A. At some degree, yes.
28 Q. And their efforts are in addition to the

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1 efforts that you -- your program is doing in that
2 regard?
3 A. Yes.
4 Q. Do they do anything that relates to
5 environmental tobacco smoke that comes in the form of
6 anything other than a flyer or a print ad? And there
7 was Americans for Nonsmokers' Rights or the American
8 Lung Association.
9 A. Other than print?
10 Q. Yeah. Are they doing other things to
11 provide the public with warnings about ETS?
12 A. Well, I mean, they have been on TV from
13 time to time. I'm not sure what you are getting at.
14 Q. That's what I am getting at. They do
15 television media, paid for media?
16 A. From time to time. Or when there was --
17 or unpaid. I mean --
18 Q. Public service?
19 A. Right.
20 Q. Now, I think I confused things by
21 combining together both the American Lung Association
22 and the Americans --
23 A. -- for Nonsmokers' Rights.
24 Q. Yeah. Do each of those organizations
25 do -- have each of those organizations done media --
26 television media that relates to health effects of
27 environmental tobacco smoke?
28 A. It's -- I mean, American for Nonsmokers'

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1 Rights, I have not seen anything that they have ever
2 done in the media.
3 Q. But the American Lung Association has in
4 San Diego County?
5 A. Well, if they have, it's a part of their
6 parent organization. I mean, I don't --
7 Q. A part of the statewide or nationwide?
8 A. Right. Right.
9 Q. You believe that they have done that in
10 San Diego County?
11 A. Minimally. They usually work directly
12 with employers or entities to provide information for
13 policy development.
14 Q. In other words, do things like trying to
15 prevent -- promote smoke-free work places and things of
16 that nature?
17 A. Right.
18 Q. Other than the print materials that we
19 have gone through and that you have generally spoken
20 about that were distributed at health fairs and at

21 health providers, has the Tobacco Control Program, since
22 1990, done anything else to educate parents or adults
23 about the health effects of exposing their children to
24 environmental tobacco smoke?
25 A. And you did say other than campaigns that
26 we have already mentioned?
27 Q. Well, other than the two that I think we
28 have mentioned, which are -- I guess I didn't think of

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1 them as campaigns -- but warnings, sending warning
2 materials to health fairs and putting warning materials
3 in the hands of health providers, written warning
4 materials.

5 A. Right. And any of the media pieces that
6 we have done?

7 Q. Which media pieces have you done?

8 A. Meaning back to the radio station or the
9 TV ads.

10 Q. The ones we already discussed?

11 A. Right, right.

12 Q. The ATAC --

13 A. Right.

14 Q. -- ads, and there were a couple of other
15 sets of ads that we talked about.

16 A. Right.

17 Q. Anything else other than those? Have
18 there ever been any events that focus on parents or
19 adults avoiding exposing their children to ETS?

20 A. There have been some events that the
21 coalition has participated in.

22 Q. Can you describe those events?

23 A. Well, one, for example, was a visual of
24 crushing a pack of cigarettes, that type of thing. That
25 was right around the time when the smoke-free workplace
26 law came into effect.

27 Q. A visual, do you mean -- is this a
28 television ad?

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1 A. It was for TV. I mean media was invited.
2 It was for TV. Actually, it has a steam roller running
3 over packs of cigarettes.

4 Q. Mm-hmm.

5 A. But it wasn't something that they filmed.
6 I mean, they invited media --

7 Q. -- to cover it?

8 A. To cover it.

9 Q. And in that event, they discussed not only
10 direct smoking but environmental tobacco smoking issues?

11 A. To a limited extent.

12 Q. When did that take place? Around 1996?

13 A. Yeah, around then.

14 Q. Any other events where the effect of
15 environmental tobacco smoke on children was a component?

16 A. Well, I mean, we had information from time
17 to time at the Del Mar Fair, that type of thing. I
18 don't know if that's what you are going --

19 Q. That is, I'm really asking in the broadest
20 sense. So anything you can come up with is helpful.
21 The Del Mar Fair is a county fair?

22 A. Yes.

23 Q. General purpose fair?

24 A. Right.

25 Q. And you would provide warning materials at

26 the fair?
27 A. We had materials and incentive items for
28 youth. 117

1 Q. Did you have a booth or something?
2 A. Yes. Not every year, but, yes, we have
3 had that throughout the last 10 years.
4 Q. Most years?
5 A. Probably at least five of those years, we
6 probably went to the Del Mar Fair.
7 Q. What's an incentive item?
8 A. A pencil with, you know --
9 Q. A warning on it?
10 A. Yeah. Or --
11 Q. You give those away?
12 A. Right.
13 Q. Are there other community events where any
14 kind of ETS information is provided by -- or provided by
15 the Tobacco Control Program to the public other than
16 fairs and health fairs, church events, car washes? I'm
17 trying to think of events that take place.
18 A. I know we have had like one of the --
19 there's -- well, the radio stations has a large van,
20 bus-type thing that goes around, you know, to beach
21 activities and that type of thing. And at one point in
22 time, there was information provided to youth through
23 that. I'm trying to think of others.
24 Q. Do you know roughly when that was?
25 A. That was probably about five years ago.
26 Q. So mid '90s.
27 So they would -- when you say information,
28 like they would drive up on the beach and have music and 118

1 pass out information?
2 A. Yeah, it would be one of the things that
3 they would pass out with a number of other things, too,
4 depending upon what --
5 Q. So that's another example of reaching
6 youth.
7 Have you had any campaigns -- I guess by
8 "campaign," I mean sort of an extended event -- in the
9 county? For example, I guess I think of the 93-day
10 smoke-free program as a campaign. Anything that lasts
11 for a period of time. Have you had any special
12 campaigns in this county that relate to environmental
13 tobacco smoke as the focus? Smoke-free cars or
14 smoke-free homes campaign or anything like that?
15 A. The only other one that I think would come
16 close is when we did -- when the bars became smoke-free,
17 and so we did a -- you know, ads and that type of thing.
18 Q. That was a sustained period --
19 A. Right. Right.
20 Q. -- activity. Okay. We will get to that.
21 A. Okay.
22 Q. I have a fair amount of materials.
23 A. Okay.
24 Q. Other than smoke-free bars, though, are
25 there other examples of campaigns that focus on ETS
26 exposure that you can think of?
27 A. Not that I can think of.
28 Q. Could you mark this as the next exhibit. 119

1 (Defendants' Exhibit No. 507 was marked.)

2 BY MR. GROSS:
3 Q. This is a document that was produced to me
4 by your office. Do you recognize it?
5 A. Community events that we participated in.
6 Q. These are, I take it, then an example, set
7 of examples, of the types of fairs and community events
8 where you would be distributing tobacco-related
9 information, including information about environmental
10 tobacco smoke?
11 A. Right.
12 Q. Has another component of the Tobacco
13 Control Program's ETS-related activities been a
14 smoke-free work place warning programs or campaigns?
15 A. Yes.
16 Q. Is it correct that there the focus in the
17 mid '90s was the smoke-free work places generally, and
18 then later the focus was a smoke-free bar, as the law
19 came into effect that required smoke-free bars?
20 A. Yes.
21 Q. Would you mark this as the next exhibit.
22 (Defendants' Exhibit 508 was marked.)
23 BY MR. GROSS:
24 Q. I have placed before you Exhibit 508. Are
25 you familiar with this document?
26 A. Yes.
27 Q. Is this a guide that you provided to work-
28 places, your program provided to workplaces, to help
120
1 them implement smoke-free workplaces?
2 A. Yes.
3 Q. How was this distributed? Let me put it
4 this way. To whom was this distributed?
5 A. Well, as it said, to a number of business
6 leaders and community educators; so folks that were
7 actually involved with work sites. This was also given
8 to different large entities that possibly we were
9 receiving smoking complaints from.
10 Q. In other words, if there was some office
11 that didn't seem to be having a smoke-free work
12 environment, that would be something that you would send
13 this to?
14 A. Yes.
15 Q. If you turn to Page 41, there's a
16 reference to a tobacco quiz. Is this a quiz that was to
17 be provided to the employees of these workplaces?
18 A. Yes.
19 Q. And did it involve questions and then, of
20 course, answers where it related to the health effects
21 of environmental tobacco smoke?
22 A. There were some, yes.
23 Q. On Page 43, is this a summary of
24 information about the effects of secondhand smoke on
25 people who don't smoke?
26 A. Yes.
27 Q. Were these -- were these guides provided
28 to employers and business leaders and community
121
1 educators in the '95 time frame or thereabouts?
2 A. Yes.
3 Q. Were they provided at any other time?
4 A. As long as the supply lasts.
5 Q. If I wanted to know how many of these were
6 produced and distributed, could I find that out from the

7 program reports?
8 A. Some of it should be listed in there, yes.
9 Q. Do you know if this was produced in other
10 languages as well?
11 A. I don't remember if this was actually
12 translated to Spanish. Some of these documents were
13 also submitted to the clearinghouse.
14 Q. So that they could be used by other
15 counties?
16 A. Yes.
17 Q. Could you mark this one as exhibit next in
18 order?
19 (Defendants' Exhibit No. 509 was marked.)
20 MR. GROSS: Do you need to take a break?
21 THE WITNESS: Yes.
22 MR. GROSS: This is a good time.
23 (A recess was taken.)
24 BY MR. GROSS:
25 Q. I marked -- and I think it's right there
26 over on your stack -- Exhibit No. 509. Looks like it's
27 A Guide to the California State Workplace Smoking Law
28 created by the County of San Diego. Off the record.

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1 (A discussion was held off the record.)
2 BY MR. GROSS:
3 Q. Is this a guide that your office created
4 to provide employers with information about local
5 smoking ordinances?
6 A. Yes.
7 Q. Was this distributed to employers
8 generally?
9 A. Yes.
10 Q. Do you know what employers it was
11 distributed to?
12 A. Specifically, no.
13 Q. Types of employers?
14 A. Generally, small -- smaller ones.
15 Q. To give them an idea of what they had to
16 comply with?
17 A. Exactly.
18 Q. Also, did -- sorry.
19 Am I correct that this guide also explains
20 why such laws are needed, including an explanation about
21 the health effects associated with environmental tobacco
22 smoke?
23 A. Yes.
24 Q. Was this also something that was
25 distributed around the '95, '96 time frame?
26 A. Yes.
27 Q. Other than distributing the written
28 materials that we just went through --

123

1 A. If you don't mind --
2 Q. Sure. Let's take a break.
3 (A recess was taken.)
4 BY MR. GROSS:
5 Q. Let me pick up with what we were talking
6 about just before the break. Other than distributing
7 the written materials that we have just gone through, is
8 there anything else that the Tobacco Control Program did
9 in connection with the implementation or enforcement of
10 workplace smoking laws?
11 A. Okay. We did -- or encouraged voluntary

12 compliance of ordinances. We did not do enforcement as
13 such, meaning we did not levy fines or give citations,
14 that type of thing. We always encouraged voluntary
15 compliance. If that did not occur, then we would submit
16 the work site over to the appropriate authority.

17 Q. So you monitored work sites though and --
18 how did you become aware of work sites that weren't
19 complying?

20 A. It was totally compliant driven. So we
21 had a telephone line that people could call in if they
22 felt that the law was being broken.

23 Q. Do you still have this telephone line?

24 A. Yes.

25 Q. So that's been in effect since when?
26 1995?

27 A. About.

28 Q. And do you receive a lot of calls about

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1 workplace or bar noncompliance?

2 A. There were more calls before workplaces
3 went smoke-free in its entirety, and then they pretty
4 much leveled off -- or trailed off, I should say, until
5 bars went smoke-free, and then it's been predominantly
6 complaints about bars.

7 Q. So when you receive complaints about any
8 of these entities, do you contact those entities and
9 encourage them specifically to be smoke-free?

10 A. Yes. We provide them with the law and a